Framing Geelani, Hanging Afzal

Patriotism in the Time of Terror

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Patriotism in the Time of Terror

Nandita Haksar

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In celebration of
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Patriotism in the Time of Terror

Letter to My Readers

Dear Reader,

You have my book in your hand. I wonder what made you pick it up. It may be that you are curious about the Parliament attack case. I am one of the lawyers who were part of the defence team for S A R Geelani, so you could expect this book to be about courts and the law. But this book is not merely about the trial although the trial is a part of the story. As you can see this book is written in the form of a fable and nine open letters, including this one addressed to you.

Let me explain why I could not write the story of the case in the usual straightforward narrative, beginning at the beginning and ending with the end. The problem is that there are so many beginnings and there is no end. The story is still continuing.

I would like to warn you, dear Reader, that this book is not even about those who attacked our Parliament on December 13, 2001. The reason is that we still do not really know who planned this audacious attack. The Government has refused to place the facts before the people. We do not even know precisely whether there were five men or six who attacked the Parliament on that day.

The police claimed that the real masterminds behind the attack were Lashkar-e-Toiba and Jaish-e-Mohammad but they did not even mention LeT in the charge sheet; and produced no evidence in court against the three Jaish-e-Mohammad persons named.

But, as I said, this book is not about the attack but about the reactions to the attack. Is it not strange, dear Reader, that we the people should not want to know who actually attacked the Parliament and why. This book is really about us, our country. It is

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primarily addressed to Indian citizens and to those who live in South Asia. I have written this book because I have been very disturbed by the passions that have been generated by this case.

I have been specially distressed to see that for many citizens the love of their country is based on intense hatred of a vast number of fellow citizens. A politics of hatred has turned so many men, women and children communal, violent and sadistic. A Tamil Nadu based organization, Federation of Hindu Organizations has called upon President A P J Abdul Kalam with this request: "The sentence should be so amended that his (Afzal's) right hand and left leg are cut off and one of his eyes is gouged out and he is allowed, in this state of mutilation to freely tour the whole of India and make an exhibit of himself in order that no extremist or terrorist ever emerges in this country again." This widely circulated statement adds that the Federation is "waiting with hope" for the President to make this recommendation and prove himself, "a great patriot".

More recently the Shiv Sena Supremo made similar distasteful remarks about our President and there was no reaction to the remarks by the ultra-nationalists of the BJP, for whom winning Mumbai Municipal elections was more important than upholding the dignity of the office of President of our country. But then there was a deafening silence from the rest of the country as well.

The campaigns for Geelani's acquittal and justice for Afzal brought me face to face with this hate. Sometimes it was angry and vociferous like when Shiv Sena goons burst crackers outside the courtroom in Patiala House, minutes after the Judge had sentenced three men to death, or when they ransacked the office of a senior lawyer when he announced he would defend Geelani. Sometimes the hatred was manifested out in the open like the time when the BJP members burnt Afzal's effigies, but often the hatred was cold and calculated like the assassin waiting outside my home with a pistol in hand to kill Geelani.

But it was not only the politics of hate that was so disturbing but also the terrible, inexplicable fear that seems to have gripped my fellow citizens. Have you seen the way all our neighbourhoods have begun to look like fortified cities with black iron fences and gates guarded by men in smart uniforms warming their hands on miserable little fires in the middle of Delhi's bitter winter cold?

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We do not feel safe anywhere either in our homes or on our way to office. We can no longer go for a holiday to Kashmir and even to peaceful Goa. There have been serious terrorist threats in every corner of our country. Yes, dear Reader, it is all very frightening. And the fear of being a victim of violence can grip one in the guts and leave us in a state of moral panic. The images of terrorist in Bollywood films feed this panic and fear. And we have reached a stage when we are willing to sacrifice all our civil liberties in the hope that we can be safe.

This chilling hatred and fear has created an insatiable demand for human life. We do not care how many terrorists are tortured, maimed, beaten and killed by violent brutish policemen or our security forces. We do not care if they violate the laws, procedures and even the Constitution of India as long as we can somehow restore order. We do not want to know who these 'terrorists' are and we do not care what happens to them as long as our country remains whole and secure.

In such a situation any talk about the human rights of terrorists seems quite misplaced, doesn't it? You would want to know what I would do if I lost someone dear to me in a bomb blast in Sarojini Nagar or in the Mumbai blasts. On one occasion when I was to speak on: "Do terrorists have human rights?" my sister asked me: "What would you say to me if my three-year-old son was killed by a Kashmiri militant?"

I told her that there was very little possibility of her son being killed by a Kashmiri militant. However, if such an event did occur I would not say anything to her immediately because nothing I could say would be of any comfort. But later I would tell her that it is in the face of such tragedies that we can test our mettle.

I would tell my sister the story of Sonia Morron, the widow of Jorge Luis Morron, the 38-year-old man who died when the Twin Towers were attacked in New York. She was pregnant at the time but she lost her baby in the shock of losing her husband. Sonia has opposed the US war against terrorism as have 40 other such relatives. They have said that their "grief is not a cry for war." Some of them have organized themselves under the banner of "September 11 Families for Peaceful Tomorrow" taking inspiration

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from Martin Luther King's words: "wars are poor chisels for peaceful tomorrows."

And I would have reminded my sister of how Prof Harpal Singh had faced such a tragedy.

Harpal Singhji was a professor of political science at the Meerut University in the 1980s. He and his wife had only one child, a son who was a doctor. The doctor was a well known anesthetist in a local hospital and was married with one small son of his own, exactly the age of my sister's son. In the mid 1980s there were communal riots in Meerut and on the first night a mob of Muslim rioters burnt alive Prof Harpal Singh's son in his car as he was driving home from the hospital in the evening.

The next day the Provincial Armed Constabulary (PAC) picked up more than 30 Muslim men from a neighbourhood called Hashimpura and took them to the Gang Neher at Ghaziabad and shot them one by one and the bodies floated down the canal to Okhla in Delhi. Syed Shahabuddin phoned me and asked me to take up the case and on his request I went to Meerut. Before leaving I asked him for contacts in Meerut and he told me to meet Prof Harpal Singh. Shahabuddin Saheb did not tell me anything about the man. So along with two friends I went to Meerut and landed in the Prof's house. There, we learnt about his tragedy.

We also learnt that the moment he heard about how the PAC were killing Muslims he had left his son's corpse and tried to stop the pogrom at Hashimpura. He always said that his loss had made him feel a deep sense of solidarity with anyone who faced political violence.

When Geelani was shot outside my house Prof Harpal Singh phoned to ask how Geelani was. It was more than twenty years since we had been in touch and he had made a lot of effort to get my new phone number. He phoned every now and then till Geelani was out of danger and had recovered. Then I lost touch with him again.

Dear Reader, I hope Prof Harpal Singh's story will inspire you. But it is not just his story but his political understanding that needs to be appreciated and internalized. Political understanding does not lessen the pain of personal loss. But it helps to put our pain

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and suffering into a perspective. It can stop us from being bitter, angry or cynical.

Let us go back to my sister's hypothetical question. I told her that she must look for possible answers. It could be that her son was killed while she was holidaying in Kashmir, staying with our uncle who was posted there. After all we do have an uncle who is in the army and who was posted in Kashmir. May be a Kashmiri wanted to take revenge on my uncle's family for something my uncle did. May be our uncle had tortured someone.

My sister thought this was really preposterous. Our uncle is warm-hearted, straightforward, gentle and kind. He would never torture people. But remember that torture is a part of the counter insurgency programme, so even if he did not torture anyone personally many people would have been tortured under his supervision.

Have you any idea what the word "torture" means?

I read about Muzaffar Ahmed Mirza, a teacher of Arabic who was arrested from Tral village, about four kilometres from Srinagar. He was beaten and electric shocks applied to his genitals. Then a rod was inserted into his rectum and pushed through to his chest. He was found on the roadside and taken to hospital. Before Mirza died he gave his testimony to the media but it was never broadcast or printed. It was censored in national interest. I am haunted by the fact that our security forces can get away with such cruel and barbaric behaviour in the name of safeguarding our security.

Should we not start asking ourselves why we have become targets of terrorist violence? Why do some people hate us so much that they want to kill us? After the attack on the World Trade Center many Americans started asking themselves why they had become targets of hate. A professor at Colarado University by the name of Ward Churchill even wrote that those victims who lost their lives were not "innocent victims". He said he did not in any way support the September 11 attacks but he did want to point out that if US foreign policy results in massive death and destruction abroad, Americans could not feign innocence when some of that destruction is returned.

Should we not be a little more interested in looking at our policy in Kashmir that has led the Kashmiris to hate us? That is

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precisely the question that I have raised in this book. I have tried to share with you, dear Reader, what I learnt about the world the Kashmiris inhabit, the terrifying reality of illegal arrests, dark and damp prison cells and barbarity of torture and the pain of a child waiting for his father to be hanged.

I also started asking myself what this so called war against terrorism was all about. Is it not strange that we have a war against something which we cannot define? There is not even an international consensus on the definition of either "terrorism" or "terrorist". We need to have a closer look at India's war against terrorism.

Dear Reader, I want to share with you what I have learnt about two Kashmiris who have been demonized as "terrorists". I want you to enter into the world of Kashmiris such as Abdul Rahman Geelani and Mohammad Afzal and I think you will learn not only about their lives but a little more about ours. You will learn about them but you will also learn about yourself as I have learnt about myself, about my own political assumptions and beliefs.

I think what shocked me is that our government and our media talk so much about terrorism but tell so little about its causes. It also seems that terrorism is the only problem that our country is facing. Do you know, dear Reader, that there is a fire every six minutes in our country? Yet we do not live with the fear that our homes or offices will go up in flames any moment. The number of children who die of measles every day is 2,700. But we do not panic when our children get measles. The number of people who die every day of hunger is 24,000 but we do not panic if we miss a meal.

No one expresses fear of the deaths from hunger, disease or even road accidents in which many more people die every day than they do in terrorist attacks. We should ask why the very real fears of some people are made invisible while the fear of terrorist attacks seem to occupy our entire national attention.

I believe that most Indians would be outraged to learn to what extent the state can go to frame an innocent citizen. I am sure my fellow citizens would not want anyone to be hanged without being given an opportunity to be heard. I say this with confidence because

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so many people have expressed their solidarity with our campaigns for Geelani and now for Afzal. And the support has come from all over the country and from so many sections of our society. There was even a top model who wanted to shake my hands when she learnt that I was Geelani's lawyer!

I was very moved when I got a phone from a senior surgeon I had seen about a possible spinal surgery. When I heard that Afzal's date of execution had been fixed I did not follow up the appointment with him. He had phoned to say that he would ensure that I would be able to work so long as I could save Afzal. This was an act of solidarity of a man who understood human suffering.

Our Prime Minister's youngest daughter, Amrit Singh, has been working with political prisoners in the USA. She has been working for the rights of Iraqi and Afghani prisoners and has been awarded a prize for her work by the South Asia Bar Association of New York (SABANY). Surely, she will feel a sense of solidarity with political prisoners held in Indian jails.

These letters have been written between July 2004 and January 2007.

The only letter I have actually sent is the one to Barkha Dutt. I sent her the letter on September 26, 2006 on the day the TV channels announced that Afzal's execution had been fixed for October 20, 2006 at 6 am. It was to be nine days after world anti-death penalty day; one day before Diwali and few days before Eid, in the Holy month of Ramzan. I have added a few more paragraphs and a postscript to the letter.

Barkha has not responded to my letter.

Dear Reader, I must confess that for the last five years I have been through so many emotions that I feel I have been on a roller-coaster ride of emotions: outrage by the injustice being done to Geelani and Afzal; sadness that our country's most cherished institutions are being destroyed by politics of hatred; and helplessness because people who could have made a difference by effectively intervening are silent. There were times I felt I was living in a republic of dying dreams where no one had any vision for the future.

And then I would invariably meet people who were willing to fight for justice without a thought to their own safety or comfort. I

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would once again believe in the magic of love, friendship and solidarity. I have written this book in the hope that we understand each other more, hate less and fear nothing. It is for you dear Reader to judge how far I have succeeded.

Yours very sincerely,

Nandita Haksar

New Delhi, February 2007

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From death row to acquittal: a long journey. Geelani with Defence Committee Members, Prof Rajni Kothari (Chairman), Surendra Mohan and Nandita Haksar.

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Framing Geelani, Framing Islam

Letter to Prime Minister Dr Manmohan Singh

Dear Mr Prime Minister,

On September 11, 2004 you released two volumes of speeches and writings by my father. On that occasion I had the opportunity to say a few words. Perhaps you did not know that it was the first time I spoke about my father in public. It may not have seemed to be very personal because I spoke about the conditions of prisoners kept in the high security cells of Tihar Jail. But then I cannot separate my relationship with my father and my country. The relationship with both are political and very personal at the same time.

You were kind enough to ask me about the prisoners, and when I asked you whether I could meet you and tell you about the details you introduced me to your Secretary and promised to give me an appointment. I have his phone number in my diary. Several months later, I did desperately try to get an appointment. He asked me why I wanted to see you. I realized that there would be no way I could explain the urgency. Nor could I share the anguish I was feeling and the need to share it with you. Of course I realized that Prime Ministers do not have time to share the anguish of every citizen who may feel aggrieved or agonized by some aspect of our national life.

It was then that I decided not to waste your time and I stopped phoning your office. But I still want to tell you personally what I feel about certain things. I hope you will find the time to read this letter some day. And that is why I write this in the form of an open letter, because it is deeply personal and also political.

I am sure you know that I have been a part of the defence team of S A R Geelani, the man who was first sentenced to death on charges of conspiring to attack the Indian Parliament and then

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acquitted by the High Court of Delhi. I have been accused of being anti-national and people have expressed shock that a daughter of a nationalist father should betray his ideals. I feel the need to explain why I took up the case and what I have learnt about our country in the course of this case. I do not feel any need to defend myself but I do feel the need to make a public statement about my politics, the politics that led me to defend this "terrorist". From the beginning I was intensely aware that I was not merely defending an individual, but was also defending Indian democracy.

This was the most difficult case I have ever handled. If we look at it as a purely "legal case" then it was easy. First of all there was no evidence against Geelani. The police had never recovered anything from his person or from his home. In fact they did not even bother to officially search his home. Second, Geelani never gave any confession even though the police had tried to extract a false statement from him. Third, none of the 80 Prosecution Witnesses even alleged that Geelani belonged to any banned organization. Despite these facts Geelani was sentenced to death. That is what made the case difficult. But that is not all.

What I found the most difficult was dealing with the fear that had gripped the left, secular and democratic sections of our intelligentsia. You will remember that when Geelani was sentenced to death, the Hindutva forces were ruling India and everyone talked about the possibility of full-fledged fascism. No one dared to be called anti-national because the Sangh Parivar seemed to have a monopoly over Indian nationalism. The media and the police combined to carry out a violent and cruel campaign against one single man who had no way to defend himself. It was as if the country was getting some vicarious sadistic pleasure in persecuting him.

The difficult part of the case was to break through that wall of hatred, suspicion and prejudice.

Mr Prime Minister, once your party came to power I thought the state of affairs would improve. But a change of Government does not mean a change in the state machinery. The police, the judiciary and the administration remain the same. How else do I explain why the Delhi Administration and Police stopped a meeting organized on March 12, 2005 at Batla House Chowk?

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I am sure you will remember that there was an attempt to assassinate Geelani just outside my house on February 8, 2005. After he returned from the hospital the local Municipal Councillor of Okhla organized a meeting to felicitate me for saving Geelani's life. It seemed an ideal case of Hindu-Muslim unity, the kind celebrated as part of official efforts at national integration. I confess, Mr Prime Minister, this is not the way I looked at the incident but I thought it may be reassuring for the people of Zakir Nagar who live in perpetual fear.

The Municipal Councillor stuck posters in Urdu and Hindi in every bylane of Zakir Nagar and mobilized the people for the meeting. The Delhi Police tried all means to get the meeting cancelled. When none of us succumbed to their pressure they issued a notice to the Municipal Councillor. The Notice is no 10769/ SD (x) dated March 11, 2005 from the Office of the Deputy Commissioner of Police: South Distt, Delhi:

Subject: *Regarding meeting to honour Sh S A R Geelani and his advocate Smt Nandita Haksar at Batla House Chowk on 12–3–2005*

Sir,

With reference to your letter dated 11–3–2005 on the subject cited above, I am to inform you that the matter regarding organising the proposed meeting in the honour of S A R Geelani and his advocate Smt Nandita Haksar at Batla Chowk on 12–3–2005 at 8 pm has been considered but the same cannot be allowed apprehending law and order problems and communal tension. You are required to cancel the proposed meeting otherwise legal action will be initiated against the defaulters.

Sd/-
(Praveen Ranjan)

That night approximately 10,000 people gathered at Batla Chowk and they were dispersed by force by the police. I arrived later to see every lane, by-lane of Zakir Nagar under occupation of policemen wielding machine guns. The police had even brought two bus loads of Bajrang Dal members who had a demonstration outside the Holy Family Hospital. It was all chilling. And the fear was palpable.

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Mr Prime Minister, as you know Zakir Nagar is entirely inhabited by the Muslim community and I have been going there regularly to visit Geelani who now lives there. I have never faced an iota of hostility, so why would my speaking at Batla Chowk lead to communal tension?

I would have thought this was a meeting which Congress Party itself could have organized to celebrate how a Kashmiri Pundit had saved the life of a Kashmiri Muslim. Was it not a classic case of unity in diversity, communal harmony and Indian nationalism of the Nehruvian era? In the past I had thought these gestures a little artificial, not strong enough to build real bridges between communities and too weak to lay a foundation for a strong nation. Now, even these gestures were being looked upon as threats to national security, and needed to be put down by machine guns.

My father would not have understood why such a meeting was cancelled. He would have been very angry; he would have picked up the phone and talked to the officials, scolded them for their folly and made sure that things were never brought to such a head. He would have been proud of me, my actions and my politics. I am glad he is not alive to see the death of his dream of a secular, democratic and united India. I am glad he is not alive to see the Gujarat genocide and I am glad he is not alive to see innocent Indian citizens being sentenced to death.

But you, Mr Prime Minister, are alive and heading a Government committed to the same values. You have publicly acknowledged that you respect my father and he always had a deep respect for you and a certain affection. This respect and affection was based on shared values and concerns. And that has prompted me to write to you, to trespass on your valuable time.

I must confess that in the process of defending Geelani I learnt a lot about my own country. On that night when he was shot and we rushed him to the hospital my only thought was to save him. I have grown to love him dearly, to love his courage, his wry humour and his dispassionate political analysis, and deeply emotional commitment to the cause of his people. I felt an overwhelming helplessness that I could do nothing to save him from blind, senseless hatred and politics based on prejudice, chauvinism and ignorance.

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I want to tell you about the life and political background of Geelani. I want to tell you details of his every day life in Delhi and in Kashmir. I think those ordinary facts reflect the terrifying reality of the lives of Muslim citizens of our country, especially the uncertainties in the lives of Kashmiri Muslims. These facts from the life of one citizen demonstrate how a wide chasm has grown between Hindus and Muslims, between Kashmiris and the other citizens of our country, between Indians and Pakistanis.

Defending Geelani

Mr Prime Minister, you may be wondering how I came to take up this case.

It was perhaps sometime in May 2002 that I received an e-mail from Sanjay, a young friend, asking me to take up the case of Geelani, the Delhi University lecturer, who was accused of conspiring to attack the Indian Parliament. I did not want to take up the case because I had given up practice and had settled in Goa. But I had met Sayed Abdul Rahman Geelani two times, once in Delhi University and on another occasion when this young friend had brought him to our home in Delhi. It was our shared concern with the nationality question in India that had brought us together.

On June 13, 2002, I went to meet Geelani in jail. I went with his friend Sanjay and wife Aarifa. Since the CID man had tried to stop me from meeting him, by the time I managed to enter the *mulaaqaat* (meeting) room of Tihar Jail, Geelani and Sanjay were already discussing the case. In fact Geelani was shouting at Sanjay for not organizing a lawyer when the trial was about to begin. I do not remember the exact words but Geelani was very harsh with Sanjay and Sanjay had tears in his eyes, unable to tell Geelani that the lower court lawyers had passed a resolution warning their members not to defend anyone accused of anti-national activities.

Geelani told me he had been tortured. He said that the physical abuse was not half as bad as the verbal humiliation. "It was like being in a RSS office." He asked me to take up his case. I asked him whether he could really trust me, and he laughed. We did not have much time as the *mulaaqaat* was over within ten minutes and we were ushered out. I was deeply moved by Sanjay's and

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Geelani's friendship. A friendship between a Bihari Rajput and a Kashmiri Muslim. Such friendships are indeed rare. I was also deeply moved by Geelani's trust in me. He was entrusting his life to me. And that is how I decided to take up Geelani's defence.

At that time I was not really aware of the extent to which communalism had permeated into every institution. I thought it was just a question of getting a good lawyer. I am not a criminal lawyer, so I could not conduct the trial. I remembered a senior advocate and at that time the president of the Supreme Court Bar Association. He knew my father and had always been very kind to me and had helped me when I was a young lawyer struggling to understand the ropes of a new profession.

He immediately gave me an appointment and I took Sanjay to his office with great deal of self-confidence that our problem would soon be solved. He was very warm but the moment he heard of our mission he smiled apologetically and said: "Nandita, I cannot possibly take up this case." He said he could not even recommend any lawyer to take up the case professionally.

That was my first encounter with a new kind of Indian nationalism. A nationalism that denied citizens their fundamental rights enshrined in our Constitution. I soon discovered that no lawyer was going to defend a man accused of attacking the Indian Parliament, not only out of misplaced nationalism but also because of the fear of being called anti-national. We finally solved the problem by engaging a professional criminal lawyer who set her fees at Rs 2,50,000. This was way beyond anything that a young lecturer on suspension wages could afford. Luckily for him his colleagues, friends and family members raised the money. However, his co-accused Mohammad Afzal Guru never had a lawyer at the Sessions trial. Mr Prime Minister, an Indian court sentenced a citizen to death without giving him an opportunity to defend himself. I feel a burning shame whenever I think of Mohammad Afzal sitting in his cell in Tihar Jail's death row.

The fact is that none of the four accused in the Parliament attack case got a fair trial. It was not only because communalism had vitiated the atmosphere even in the courtroom, but also because this was the first major trial under the newly passed

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Prevention of Terrorism Act, a law passed against the wishes of vast number of Indian citizens committed to democratic values and in accordance with the diktats of the USA and its need to create a moral panic world over by launching war against terrorism.

At that moment there was no one we could turn to. No one wanted to hear about Geelani or his family, friends or colleagues. There was no way we could make our voices heard. The only solution seemed to be to contact Amnesty International. Once again I could be accused of being anti-national, of inviting foreign intervention in domestic affairs of our country in such a politically sensitive matter. What should I have done, Mr Prime Minister? Should I let an innocent Indian citizen be sentenced to death as I felt sure he would be, or keep silent out of false patriotism?

I made a power point presentation on Geelani and sent it to Amnesty International. In that I included a moving description of Geelani by Sanjay entitled "Abdul Rahman, my friend". May I reproduce it for you?

A shy soft-spoken Kashmiri youth met us in the Mansarovar Hostel, a post graduate hostel of the University of Delhi, in the mid-nineties. On getting to know him better he came through as a deeply compassionate man with great love for fine arts. He was passionately in love with the great secular poets of Urdu such as Faiz Ahmad Faiz, Moinudddin Maqudum, Majaz, etc and spent hours discussing the finer points of their poetry and the earthy humanity of their message.

Being a sensitive man he felt deeply for the sufferings of the Kashmiris; but his compassion was not bound by sectarian concerns. He was equally moved by the sufferings of the quake victims of Latur and Gujarat, and he worked with the teachers and students of Delhi University to collect relief material. To register his disagreement with religious and sectarian fanaticism he used to unfailingly participate in secular rallies. We still remember him carrying a lit candle during the peace marches organized to remember the innocent lives lost in the riots that swept the country in the aftermath of the demolition of the Babri Mosque.

Now that person stands accused for perpetuating terrorism... Knowing him I find it very difficult to believe the charges.

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It was much later that I realized that Sanjay had deliberately left out two most important aspects of his friend's personality. The first is that he was deeply inspired by the values of Islam and he was a committed Kashmiri nationalist. In fact when I asked Sanjay about Geelani's Ph D topic he told me it was a comparison between "Autobiographies written by Indian and Egyptian Scholars". I did not ask what kind of biographies and he did not tell me. In fact Geelani was working on a comparison between the biographies of Prophet Mohammed written in India and Egypt.

You see, Mr Prime Minister, Sanjay was too scared to say that Geelani was a practising Muslim in case this prejudiced his chances of getting a fair trial. It was not only Sanjay who did this. When Geelani's brother showed me a moving appeal written by Geelani's mother stating that she had brought him up as a good Muslim and therefore she could not imagine her son could be involved with any terrorist activities we decided not to use her appeal. We stifled his mother's voice.

Instead, I also portrayed him as "secular" man whose wife did not wear Burqa. His lawyer at the trial court told him not to insist on making a petition asking for permission to have a copy of the Quran Sharif in case it prejudiced the judge. Thus his lawyer effectively denied him one source of comfort in those dark and dismal days of solitary confinement.

Mr Prime Minister, when you became Prime Minister you went quietly to the Golden Temple. No one thought it was out of place. You are obviously a deeply religious man. Are you not disturbed by the fact that we can defend a Muslim citizen who is in fact caught in the web of hate-filled politics only by denying him his religious identity?

And there was no question of admitting that he was a Kashmiri nationalist. Even the mention of the fact would have been taken as an admission of guilt. It occurred to me that the real charges against Geelani were that he was a Kashmiri, a Muslim and taught Arabic. Perhaps the most serious charge was that he was an educated Kashmiri Muslim who has had the courage to demand justice for his people. Does this really make him so dangerous for our security that we must condemn him to death without a fair trial

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and hang him, even though there is no evidence to link him with the conspiracy to attack the Parliament?

You may think I am wasting your time by talking about Geelani's case when he has been acquitted by both the Delhi High Court and the Supreme Court. It was an acquittal that was celebrated by thousands of men and women all over the country rather like a celebration of a miracle. I do not want to go into the details of the judgements but it seems to me that his acquittal was hardly a cause to celebrate. Franz Kafka in his novel, *The Trial* makes a distinction between 'definite acquittal' and 'ostensible acquittal'. Geelani has been given a mere 'ostensible acquittal'. I mention Kafka only because I do not know any other way to convey to you the kind of life Geelani has been living after his acquittal — the ever present threat to his life despite the CISF guards.

I am not writing to you to complain about the judicial process. After all the judicial system is just one part of the Indian state. The political question that we should be asking is why Indian citizens felt the need to celebrate the acquittal of an innocent man. Should we not ask why an innocent man was sentenced to death in the first place?

Perhaps the basic question would be why did the police, intelligence agencies and the media frame Geelani. We need to know Abdul Rahman's own background and who he is. I myself wanted to know him, understand his social and political background. I thought the story of his life would give me a glimpse of life as Kashmiris experience it.

Who is Sayed Abdul Rahman Geelani?

I wonder what impression you have of this man. I wish I could peek in to the files in the office of the Intelligence Bureau, the Special Cell of the Delhi Police, Military Intelligence and perhaps the RAW. I wonder what kind of person is buried in their files.

I have not read those files but I have seen these anonymous men collect material at our meetings and seen them covering our demonstrations and photographing us secretly. I have watched them carefully and seen them collect data on our lives and keep it hidden in their secret databases. But Mr Prime Minister, something

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important always gets left out, something that cannot be caught by these men (and women) trained to guard India's deep and dark secrets. These anonymous men do not understand idealism, solidarity or emotion. They do not know how to record these facts or interpret them since these intangibles do not fit into the law-and-order framework within which all their data have to fit. They do not have software to understand the real profile.

Besides, these intelligence agencies are neither trained historians nor do their myopic vision of India allow them to understand the complexities of politics, religion and society. They cannot even understand the law. I do not speak without personal experience. Let me give you one example. I met an upright and honest police officer (who later worked in the RAW). He liked reading and asked me to lend him a novel. I gave him Kafka's *The Trial*. After he had read it I asked him his reaction to the novel. He said: "What kind of trial is this, there was no FIR or even a proceeding." I gave the same novel to a Naga lawyer who had no background of literature. He read it in one go and his reaction was "this kind of thing happens all the time here".

I do realize we have very capable and competent men and women to analyze the data collected by these anonymous men. But when the data are itself false, then can the analysis be very meaningful? These distorted data and analyses have gone into making policy decisions that have proved disastrous for our country time and again. You may well tell me not to make such vast generalizations. I think I can prove the veracity of my allegations but for the time being I want to tell you about the life of just one Kashmiri citizen of our country.

I wonder how much data have been collected on Geelani's family background. I know that anonymous men have been gathering information all over the country and there are secret inquiries even after he has been acquitted. I fear that the intelligence agencies are trying to gather information to frame him again in some other case even though he has been acquitted by the Supreme Court.

I want to tell you the story of Geelani, a Kashmiri Muslim. I want you to compare the story I tell with the details in those secret files. And the gap between the two versions is the chasm that separates us from the Kashmiris. The reason why we are not able

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to understand the agony of the Kashmiri people. The reason why we never hear their stories. And above all, the reason why we are able to tolerate the horrors perpetuated on Kashmiri prisoners by the police and jail authorities right in the Capital of our country.

Geelani belongs to a family which traces its descent from Imam Hussain, Prophet Mohammed's grandson. Many generations ago they came down from Iraq and settled in Kashmir. His father, Maulana Sayed Abdul Wali-u-llah Shah Geelani was a well-respected Islamic scholar deeply interested in issues of education and social reform. His mother Shehzada is a gentle soul who speaks Kashmiri and Persian but not Urdu.

Sayed Abdul Wali studied in the Mufti Kifayatullah's Madrasah Ameeniya in Delhi. He was advised by Allama Anwar Shah Kashmiri to go to Delhi instead of Deoband. He then went on to teach Arabic in Amritsar but his heart was in Kashmir and he expressed his wish to go back but his students and colleagues did not want him to leave. He was a deeply loved and respected teacher. Finally he had to secretly send his library bit by bit to Kashmir and then left quietly.

Soon after his return to Baramullah, Geelani's father immersed himself in trying to reform the Muslim community and trying to wean them away from superstitious beliefs and unIslamic practices. It was during this time that Baramullah society got embroiled in a controversy which threatened to split the society into two bitter opposing sides. Even Sheikh Abdullah failed to settle the dispute and finally it was decided that Anwar Shah Kashmiri should be called.

Allama Anwar Shah Kashmiri was born in 1875 in the Lobab Valley of District Kupwara in Kashmir. He was recognized as one of world's great authorities in Hanafi jurisprudence. I think it was said of him that he memorized an entire text book in an Egyptian library and wrote and published the book when he returned to India. He had even corrected some mistakes which were in the original and posted a copy to the library which had not allowed him to borrow the book.

Anwar Shah returned to Kashmir in 1903 when his mother died. He was appalled by the pathetic condition of his people. He decided to work among his people and educate them through

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religious reforms. He opened a madrasah, Faiz-e-Aam, in Baramullah and for three years he tried to reach out to the ordinary people. But there was resistance to reforms and the people held on to their superstitions forcing Anwar Shah to return to Deoband. But he once again returned in 1920s during the religious crisis popularly known as the 'shaianlillah masala'.

The Kashmiri Muslims had developed a deep rooted faith in intercession and prayed to Dastagari Saheb (Syed Abdul Qader Jilani) inside the mosques. This was considered an unIslamic practice but the people resisted any attempts at reform. The entire Baramullah was split into two and finally Anwar Shah was called to settle the dispute. He came and told the people that they must not pray to anyone but Allah inside the mosque but could continue to do so in the privacy of their homes. The matter was settled. But when Geelani's father heard this, he was furious. He went to Anwar Shah and asked him how he had given permission for unIslamic practices inside the homes. Anwar Shah replied that he had been able to bring reform inside the mosque but now it was up to Abdul Wali Saheb to carry it to the homes.

Geelani's father reopened Anwar Shah's madrasah and tried to educate ordinary Muslims and wean them away from superstitions. He opened other schools which had classes in the mornings and evenings so that people could attend whenever it was convenient for them. He wanted to evolve an education system which did not leave the child inadequate in matters of religion or in the material world. (Din mai kami nahi ho, Duniya mai kami nahi ho). The issue of evolving an education system which combined Islamic values and traditional education with modern subjects is yet to be resolved. But Geelani's father dedicated himself to this issue with passion.

In the attempt to reform his society he incurred the wrath of the Mullahs who lived off the ignorance of a gullible people. These Mullahs would even wash the mosque after he had offered namaz. They did not only humiliate Maulana Saheb but even tried to poison him several times. On one occasion he was given a piece of poisoned meat but he ate it knowing well that it would harm him because he was in the midst of a wedding and a member of the bride's party. If he had protested the bride would have suffered

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humiliation, so he swallowed the poisoned meat. He suffered pain all his life.

Geelani was not yet born when all this happened but he remembers that his father was pain and he was told that it was a result of the poisoning. Geelani read about his father in a book written about him. But Geelani learnt one lesson from his father's life, that was to fight for truth even if one was absolutely alone. It was his father's raw courage that continues to inspire his sons.

Mr Prime Minister, I hope you do not think I am wasting time telling you the details about Geelani's father. I thought these details are important to understand how Geelani was able to bear the torture after his arrest and how he coped with solitary confinement without losing his faith in democratic values. I am sure our intelligence agencies would have put it all down to Islamic fundamentalism and how it brutalizes people so that they can bear any amount of pain.

A strange thought occurred to me. I wonder what those intelligence agents have put in my files. Oh yes, Mr Prime Minister I know they have files on me. You may ask how do I know. Well actually one of the policemen from the Special Cell told me so. I do not want to reveal too much because the poor man would get into trouble. The point is what do those files say about my motivations for defending "terrorists", and Geelani is not the only one whose case I have taken up.

I searched for an answer for myself and strangely I got it while I was recording Abdul Rahman's story. He told me that his father had beaten him very badly when he was very little because he threw a stone and broke an earthenware pot in which a woman was carrying water. It was a childish prank. The woman's son reported this to his father and Geelani was given a severe beating for violating the dignity of the poor. Do you know Mr Prime Minister, my father slapped me only once in my life, and that was when I misbehaved with my ayah. He said I should never show disrespect or humiliate anyone poorer or less powerful than myself. And my mother who never moralized told me that if I was her daughter I must never give in to fear.

Is it not strange that two children, separated by geography, political ideology and community can be brought up with the same

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kind of values and find themselves fighting for the same principles and causes? All the so-called "terrorists" that I have defended have been idealistic men (and women) who have had the courage to fight for their ideals. I would really like to know how the cynical intelligence agents interpret idealism.

Geelani was barely ten years old in 1979 when his father passed away at the age of 90 years, but not before he had instilled in his first son his passion for education, religious reform and a fearlessness to go with the commitment. He also left behind a legacy of tolerance and goodwill towards all communities. When Geelani was sentenced to death the Sikhs took out a procession in protest and were angry that their protest had not been reported in the media. Geelani said this was in appreciation of the fact that his father had saved Sikhs during the time of the Kabaili raid.

Geelani grew up in the midst of raging debates around the question of education for Muslims. He himself valued his traditional education in theology and Islamic studies, but he equally valued modern subjects such as social sciences and linguistics.

After his father passed away the ten year old Geelani and his younger brothers were put in the care of Maulana Habibullah. Habibullah Saheb came from a very poor family. He was the eldest son and had the responsibility of looking after his own family. At one point he eked out a living by making bricks near the river and selling them. However, he wanted to study and Geelani's father used to teach him in the night. He became a Maulana and opened schools. Besides, he was known for his calm temperament and was respected for his sense of justice. People came from all over to seek his advice and settle their disputes. He would always speak out against injustice even if it meant publicly disagreeing with his own son. And he always had a smile on his face.

Maulana Habibullah was the Imam and Khateeb of Bait-ul-Mukkarram Jamia Mosque in Baramullah for more than 50 years. The Maulana was 95 when he died in April 2004. Three generations of students had the benefit of his teaching. He was the Chairman of the Ulama Council, Baramullah and was remembered as a religious scholar and an educationist. He was also remembered for his contribution to the Kashmiri liberation movement.

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Geelani remembers the day when the security forces came to arrest Maulana Habibullah. People came out in hundreds to prevent the arrest and lay down in front of the police jeep. He was taken to the Jammu Jail. Geelani went to meet Maulana Habibullah several times. This was around 1984-85.

I am sure that there are very big files on Geelani's family. I wonder whether Maulana Habibullah is described as an anti-social element or as a fundamentalist. Or, is he described as an inspiration for the Jamiat-e-Islami? The truth is, Mr Prime Minister, that when Maulana Habibulah died in April 2004 there were more than a hundred thousand people who came for his funeral. Many more were stopped from joining the funeral procession by the security forces that had cordoned off the area.

It was reported in the papers that all the political leaders of Kashmir representing different shades of political opinion attended his funeral and expressed their respect for him. Perhaps what was not reported was the fact that people of all communities came. The local Sikhs came and expressed their gratitude to him for persuading them to stay on in Kashmir in the aftermath of the Chittisinghpora incident. The Sikhs in Baramullah had decided to leave the Valley and the assurances of the District authorities did little to dispel their fear. But Habibullah Saheb's intervention reassured them of their future.

A delegation of Christians came for his funeral and asked permission to pray for his departed soul. The family members withdrew and allowed them to pray over Maulana Saheb's body. Then a group of sikhs from the local Gurudwara came and asked for permission to pray for him. They too were given an opportunity to bid the Maulana farewell in accordance with their religion.

Geelani saw a General of the Indian Army attending the funeral and saluting him quietly as the funeral procession went by. What did the local SIB man make out of all this, I wonder?

Kashmiris and Armed Resistance

Abdul Rahman was in his late teens when elections were announced in Kashmir in 1986-87. He remembers the enthusiasm with which the people participated in the process and everyone

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hoped that the dispute would be settled in a democratic way. On one occasion Geelani stood along with thousands of others in Iqbal Park to listen to speeches. The atmosphere was charged and the Muslim United Front leaders said they would solve the Kashmir question through the Legislative Assembly. In that meeting Ghulam Mohammad Shah of the National Conference burnt an Indian flag to show his commitment to the Kashmir cause. Younger men were already raising questions about Indian state's integrity and asking their leaders to stop taking part in such a farce. The demand for *azaadi* and the slogans resounded all over the Valley as Geelani reached his teens. There is a small bridge on the river Jhelum as it runs through Baramullah. That was the scene of many a pitched battle.

The Kashmiri teenager saw how the security forces would begin firing teargas shells at the people, collected on the bridge near the old town. Women brought water mixed with salt and handkerchiefs to counter the effect of the teargas. The young men would gather stones from the riverbed and throw them at the security forces. Sometimes the boys would have a light wooden plank with which they caught the teargas shell and threw it back at the security forces. On one occasion Geelani was also on the bridge when the security forces started firing on unarmed people and he saw one man killed next to him. This was in the early 1980s when the armed struggle had not yet started and people were still hoping for a peaceful settlement of the dispute. But the youth were getting restive, losing their patience with their leaders who seemed to be indecisive in the face of broken promises and lies.

I do not need to remind you that the MUF leaders who were taking part in the elections included people like Syed Salahu-din who stood from Batamaloo constituency with Yasin Malik as his election agent. Everyone knew that the Muslim United Front was winning and even Sheikh Abdullah was losing, but instead of declaring the election results all these leaders were picked up and put into jails. That is when the Kashmiri youth of Geelani's generation decided that they could no longer put their faith in the *sandooq ki jang* (fight of the ballot box) and decided to take to *bandooq ki jang* (armed resistance).

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Mr Prime Minister, I know that you are aware of the historical facts which forced the Kashmiris to pick up guns after more than five decades of peaceful and democratic struggles against oppression and domination. I confess I did not know anything of Kashmir's history even though I was a student of India's most prestigious Centre for Historical Studies at the Jawaharlal Nehru University. We never studied the history of Kashmir. In fact, the first time I read anything of Kashmir's painful history was when Geelani asked me while he was in jail to bring him a copy of Prem Nath Bazaz's *The History of Struggle for Freedom in Kashmir*. It was published in 1954, the year I was born.

I also learnt a little about the more recent history of the movement, and how the government banned songs, films and poems. They banned processions by imposing curfews. But can the collective will and aspirations of a people ever be crushed by repression? Mr Prime Minister, I wonder if you ever had an opportunity to listen to stories about the movement in Kashmir from the youth who took part in the processions, the youth who set up relief committees and distributed food and medicines to all households, including the Kashmiri Pundits, during the short time that curfew was lifted. The youth set up a network of blood banks and distributed life saving drugs. They even distributed seeds to farmers in remote villages and did relief work for the poor, taught the children and set up sewing classes for women. It was often these idealistic youth who were the targets of the Indian security forces.

It was not only the youth. Many an elder, who died during this period, would tell their children not to forget to give them the good news of Kashmir's independence at their graves.

Let us for a moment believe that these activities are a threat to our national sovereignty and so we succeed in inducing a collective amnesia into a people and make them forget the exhilaration of the movement. But, how do we make them forget the pain and suffering and humiliation inflicted on them? How do we make sure that children grow up without self-respect and dignity? How do we destroy the innate sense of justice by which children judge?

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I will relate just one small incident Geelani told me. It was in his home town in Baramullah's Tashkent Chowk. In the past it was an important crossroads for trade and that is how it got its name. A tonga was clip-clopping when an army convoy appeared and shouted at the tongawala to move out of their way. A horse is not a car with gears and it took a while for the tongawala to maneuver his horse, but the army started firing indiscriminately. In the firing many shopkeepers and customers got injured. The hospitals were full of the injured and Abdul Rahman went to visit the injured. He found a child. Perhaps, a third or fourth grade student. A bullet had grazed his throat but his windpipe was not damaged.

Geelani asked the small child how he was feeling. The child turned to him, and with great calm and equanimity answered: "Allah ka shukr hai jaan bachi. Bahut khatara tha. Zalimon ne to maarna chaha" (Thank God that my life is saved, there was great danger, these vile people wanted to finish us off).

My cheeks burnt with shame when he told me the story.

Geelani attended meetings, joined processions. He found thousands and thousands of youth joining the processions to demonstrate their deep desire for freedom. They joined despite the fact that they were invariably faced with teargas, lathi charges and police firing. Geelani started a small library where the young men would gather in the nights and discuss politics and also study the Qoran. Geelani taught them because he was conversant with the scriptures and had been asked to recite from the Qoran on many an occasion at political rallies. Many of the youth were inspired to join the movement when it took to armed struggle in 1989-90. Among them was Geelani's youngest brother who crossed into Pakistan. But he was disillusioned with the Pakistanis and soon settled down there and moved on to West Asia. He has not been able to go home ever since.

Geelani was not in Kashmir during most of this time since he was studying in Lucknow and later in Delhi. By 1991, he had married but he had to leave his wife, a school teacher, in Kashmir till the time he could support his family. However, every time he went home he saw how the Indian security forces carried out a pitiless and cruel counter insurgency war in which no one was spared. He

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saw how his tailor, Ghulam Hasan Naik, was tortured to death. The tailor master of Baramullah was very poor and had a tiny shop but his kurtas were the best. He had been picked up, tortured and killed.

On another vacation, he saw the corpse of his favourite teacher, Abdur Jabbar. Abdur Jabbar taught mathematics and was very strict inside the classroom making the boys solve sums on the blackboard, but outside the class he was warm and very approachable. He was a kind-hearted man who regularly visited families whose sons had been martyred. One day the army arrested him and his corpse was found three or four days later. His legs were charred. Geelani remembers the sight of the burnt, black flesh. Many Kashmiris had been put on lighted kerosene stoves during interrogation.

On another occasion, the Indian security forces picked up children from an idgah and tortured them near a makbara. The women heard the screams and they took out a procession. The security forces fired on them and three women were martyred. That evening when Geelani and other residents of Baramullah came out of their homes, when the curfew was lifted, they heard the news of firing on the radio. The broadcaster said the three women had died in crossfire between militants and the Indian security forces. The people were filled with anger and one of them threw the radio in his rage.

Then there was the time when Geelani arrived home, only to be told that his younger brother Bismillah had been picked up. The security forces had tied ropes on his hands and pulled him up till his muscles broke. He was hung upside down and lowered into a bucket of water and made to swallow it and then beaten on the stomach till the water came out. They gave him electric shocks and put chillies and petrol in his anus. His thighs were black because of the roller treatment. Finally when they had finished with him they threw him on the white snow.

Mr Prime Minister, what has always amazed me and made me feel very humble is that despite these life experiences Abdul Rahman and Bismillah have preserved their humanity and dignity. Their deep self-respect has not allowed them to hate ordinary

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Indians even though the pain of torture is a constant reminder of the brutality of the Indian state.

In fact, all the time Geelani was a student in Delhi, he made every effort to educate his fellow students and teachers on the history and contemporary state of affairs in the Valley. He had the capacity to make friends with a wide circle of friends — a fact noted by an officer of inter-state cell — crime branch noted in the course of his investigations into the assassination attempt on Geelani.

Geelani, the Kashmiri Student

I wonder whether the intelligence agencies have reported to the Government that Kashmiri Muslims cannot rent a place in the Capital. Everyone looks upon them with suspicion. Thus when Abdul Rahman, a twenty-one year old student, came to Delhi in 1990 he could not find a place to rent. He and a friend, Adil contacted brokers and estate agents. Sometimes they even gave the initial deposit but the landlord would return it after discovering that the two were Muslims from Kashmir.

Geelani and Adil spent evenings in the international students' hostel playing table tennis or chatting with other students. At nights, they either slept in the hostels illegally or stayed up all night drinking tea at Jama Masjid, warming themselves with small fires in the bitter Delhi cold, because they had no place to go and neither of them could afford to stay in a hotel or even a lodge.

Geelani faced communalism even from the Delhi University administration. He had topped in Arabic and was entitled to accommodation in a university hostel but he had been refused a room.

When Abdul Rahman finally got hostel accommodation it was after he had finished his MA in Arabic and had enrolled for M Phil. He moved into Mansarovar Hostel. There too the atmosphere was communal. The RSS organized its shakhas on the roof of the hostel.

On one occasion, when Geelani returned late at night, a Bihari Muslim student was waiting for him. He was visibly shaken. He followed Geelani to his room and whispered that he wanted to talk to him. When Geelani asked him to speak he insisted that they go

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out to the bus stand because he was afraid to speak in the room. They sat at the bus stop where he told Geelani that the Hindutva students were on a rampage because of the M F Hussain issue. The next day Geelani went straight to the group of RSS students and asked them why they were creating a communal atmosphere on the campus. If one Muslim had hurt their sentiments by making drawings of Saraswati how could they hold all Muslims responsible?

That was Geelani's style. He always spoke out. And this was his attitude towards the Kashmir question. By this time the militancy in Kashmir was at its peak. And the media carried on a dis-information campaign portraying all Kashmiris as Pakistanis and terrorists. Kashmiris felt the direct impact of this propaganda. It impacted on the daily life of Kashmiris living in Delhi. Geelani told me of an instance which illustrates this vividly.

Ashwaq was a Kashmiri student studying in Delhi at the same time as Geelani. Ashwaq fell in love with a student who was doing MA and was also preparing for the UPSC. They were both deeply in love. The problem was that she was a Hindu and he a Muslim, and that too a Kashmiri Muslim! The news of their relationship reached her family. One day she had come to see Ashwaq in the hostel because he was not well. Geelani also happened to be going into the hostel when he saw the woman being dragged away by her uncle who even slapped her. She saw Geelani entering the hostel and cried out to him: "Rahman Bhai, they will kill me, please come to my house in the evening."

Geelani spoke to her uncle and got permission to visit the house. He arrived in the evening and talked to the family. The family was impressed by his polite and soft-spoken persuasive style of talking. The family was worried that the girl would commit suicide. Geelani told them that they should not put pressure on her because she would not be able to study. As for getting married Geelani suggested that the family ask them both to wait till they were financially independent.

The family agreed to this reasonable suggestion. They were so impressed that they ordered food for him from the Karims in Jama Masjid and confessed that they had been told that their daughter had fallen in love with a Kashmiri militant. They said they

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had a vision of a militant with long hair, long beard and long nails, like some kind of animal who would use the girl and eat her alive. They all laughed and later Ashwaq and the girl got married. They are happily married, and are in government service. They have two beautiful children and are in touch with Geelani.

Geelani has had good friends from all communities. There was Vijay Tehlan from Haryana whose father was in the Indian Army. Abdul Rahman and Vijay had many a heated discussion on Kashmir but their differences did not come in the way of their friendship. Geelani remembers the time when Vijay invited Ashwaq and him to his wedding in Haryana.

Days before Vijay's wedding they went to his village and were given some responsibilities. The day before the wedding Vijay was dressed up and taken on horse back all around the village. Vijay insisted that his two Kashmiri friends accompany the party. The Kashmiris went around the village with the merry dancing party with Vijay dancing atop the horse, but they could not overcome their inhibition and join the dancing.

Vijay used to caution Geelani not to be outspoken on Kashmir. But that was an advice that the passionate Kashmiri could never take. He not only spoke out every time people expressed their prejudiced views or ill-informed ideas but also challenged anyone who tried to misrepresent the Kashmiri people or their cause. Geelani organized several meetings in Delhi University on the Kashmir issue. He was especially vocal on human rights issues and he joined dharnas organized by Kashmiri leaders in Delhi to focus public attention on the inhuman conditions of detention of Kashmiri political prisoners. Mr Prime Minister, I was deeply shocked and disturbed to learn that these leaders were kept naked in the jail for several months and humiliated every day.

I am sure the intelligence agencies must have been alarmed that a young Kashmiri student had dared to call Kashmiri leaders such as Shabir Shah and Yasin Malik to the campus. I am sure their files do not speak of these occasions as opportunities for mutual understanding and reflection. That is why the Vice-Chancellor gave permission for these meetings despite the police warning that they could not protect the Kashmiri leaders since the meetings were not fixed with police permission. I am sure the intelligence

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agencies perceived these meetings as threats to law and order on the campus and also a threat to India's security. Am I wrong, Mr Prime Minister? Please look into the files and see for yourself.

If you look into the IB files I am also sure there will be a noting about a Kashmiri student who spoke out at a meeting organized on global terrorism at the Gandhi Peace Foundation in which K P S Gill was asked to speak. K P S Gill said that terrorism had originated in the madrasah and Deoband was responsible for exporting Taliban. Geelani spoke out and challenged the notorious police officer reminding him that Deoband had been in the forefront of India's freedom movement by initiating famous struggles like the *reshami rumal* (silk handkerchief) movement. The intelligence agents present must have taken down copious notes about the young outspoken Kashmiri.

If you do read the files, I am sure you will find another 'subversive' fact about Geelani. I am sure of it because I remember reading newspaper reports a few days after his arrest and those stories were all planted by the special cell. The stories stated that Geelani was a product of madrasah education and that makes him a potential terrorist. Mr Prime Minister, I do not want to suppress any facts. It is true Geelani went to Shamsul Uloom in Muzaffar Nagar. It was a traditional madraṣah. To reach the madrasah the students had to endure a long ride on a buffalo-cart. There were around 150 boarders, with around 12-15 boys from Kashmir.

The Kashmiri boys who arrived in the heat of UP had to cope with a totally new world. This was where Geelani and the other Kashmiri boys had their first taste of beef. I am sure you know that in Kashmir, Muslims do not traditionally have beef. They also had to get used to tea with *gur* (jaggery) and *rotis* (chapatis). When Geelani first arrived there was no electricity, and everything was so strange that the little Kashmiri boys cried themselves to sleep those first nights.

Here Geelani had many an occasion to discuss the situation in Kashmir with his teachers. They called Kashmiris, traitors. When Geelani argued with them they called him a rebel. It was very difficult for him to try and explain the reality of Kashmir to his teachers, who did not even allow a television or radio into the madrasah. Their only link with the outside world was one Urdu newspaper and

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that was shared by all the teachers. It was Spartan living and strict routine that began early in the morning till late night.

I do not know what significance the intelligence agents attached to the fact that Geelani studied in that madrasah. But I do know that it was started by Mullah Mohammed Asgar, who himself did not have any formal education. That is why he dreamt of starting a school so that Muslim children were not deprived of basic education. He asked for contributions from friends and acquaintances and with the little money he collected he bought a piece of land in the midst of sugarcane fields in his village Tandhera. And the day Maulana Hussain Ahmad Madni inaugurated his madrasah, his dream came true. I am sure Asgar Saheb would have been horrified to know that the intelligence agencies were attributing sinister motivations for opening his school.

Of course I do not need to tell you, Mr Prime Minister, about Maulana Madni or about how he opposed Muslim League's Two-Nation theory and the partition of India. His outstanding contribution to the national movement was his theoretical treatise called 'Islam aur Muttahida Qaumiyat' (United Nationalism and Islam). But then I cannot blame the young enthusiastic officer in our intelligence services if he has not heard of Maulana Madni, because our history books are totally silent about the role of the ulama (Islamic scholars) in our freedom struggle. I myself feel angry that we were never taught this part of our history and I feel cheated that I was deprived of my history and heritage. Do you know Mr Prime Minister that Islamic history and even Muslim contribution to design and architecture are being erased from syllabi across the country?

At this point I can almost see the face of the intelligence officer with his file on Geelani. He would point out to you that I have purposely left out the most important aspect of Geelani's educational background. He would probably tell you that we, Geelani and I, have conspired to suppress material facts. It is true we have not made public that Geelani was a student of Nadvat ul-Ulama (National Council of Muslim Scholars) at Lucknow in the early 1980s.

Mr Prime Minister, I have no intention to hide anything from you. I will tell you the whole truth. Geelani never wanted to disown

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his alma mater. In fact he is proud of having studied Arabic there. It is one of the best places to learn the language. And it was his grounding in Nadvah that perhaps helped him win a gold medal in his MA in Delhi University. The reason he never mentioned Nadvah was because he was trying to protect his institution from unnecessary harassment.

The Nadvah teachers felt that if anyone got to know that Geelani had passed out from their institution then they would suspect Nadvah of harbouring and producing terrorists. I suppose the intelligence agencies are not given a rudimentary training in Indian history, so there is no possibility at all of them knowing that Nadvah produced historians of world repute, the best Urdu writers and scholars and a number of Islamic scholars who have earned worldwide fame.

The history of Nadvah begins in 1892 in Kanpur. The main aim of the founders was to introduce modern subjects such as history, geography, economics and mathematics. It is one of the most important contributions in the field of Islamic education in India. It is as significant as the establishment of Dar ul–Uloom at Deoband and the Aligarh Muslim University. It is also an integral part of Indian freedom movement. The other aim of the Nadvat ul-Ulama was to unite the warring Muslim groups on religious issues. Geelani himself is aware of the history of Nadvah and even though he had his differences with the institution he would never have disowned his association with it.

The teachers at Nadvah had sent a message to Geelani not to visit Nadvah. They were afraid his visit would bring them unnecessary harassment. This was the reason why Geelani did not mention he was a student of Nadvah. It was out of a sense of honour and loyalty to his alma mater.

When I heard this I was angry with the teachers of Nadvah for disowning one of their brightest students. But then I remembered the kind of propaganda that has been carried out against madrasahs. This propaganda has only served to alienate the Muslim community even more from the rest of the Indian citizens. Geelani felt the need to be exposed to the world outside the narrow confines of Nadvah. This was the reason why Geelani joined Lucknow University for a course on linguistics.

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It was while he was in Lucknow that he had his first serious encounter with anti-Kashmiri sentiment within India. Kashmiris were called Pakistanis and the local newspapers carried all kinds of fabricated stories as part of the poisonous propaganda against the Kashmir movement. On one occasion, *Amar Ujala,* a popular Hindi daily, carried a story that Kashmiri Pundit women were stripped and Pakistan Zindabad was written on their breasts. Geelani was outraged and wrote a letter to the editor challenging him to prove the baseless story. His letter was never published.

When Geelani shifted to a hostel in Lucknow University he was once again faced with prejudice, both on account of being a Kashmiri and a Muslim. The ongoing Ram Mandir movement had vitiated the political atmosphere. There were heated discussions in the mess and in the hostels. At one point of time the atmosphere was so bad that there was a threat to Geelani's life. At that time, one of Geelani's friends, Sanjay Misra used to escort him everyday to his hostel. Sanjay did not tell his friend why he insisted on walking back with his friend every night and it was only much later that Geelani was told the reason for this unasked solicitousness.

Geelani knew that many students had unconsciously absorbed the communal propaganda against the peoples' movement for self-determination in Kashmir. Kashmir movement was being portrayed as a Muslim fundamentalist movement aimed at Hindu India. There were stories about how the Kashmiri militants were attacking Hindu temples. I asked Geelani about these allegations. He told me about the temple near his home in Baramullah. He said the Indian security forces had occupied it and made it their detention centre and torture cell. When the militants attacked the detention centre the media portrayed it as an attack on a temple. He told me how the tin roofs of the temple were taken by the armed forces and made into tin trunks and the valuables looted.

You may ask me why I should believe Geelani and not the national media. The reason is that I have seen the Indian security forces do the same thing in Naga inhabited areas of Manipur. They have invariably turned small village churches into detention centres where innocent villagers were tortured. I filed a petition way back in 1983 and got an order from the Supreme Court directing the armed forces not to use religious and educational institutions as

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detention centres. Despite this order the Indian security forces continued to desecrate churches.

My experience in the North East has helped me understand how our national media distorts facts, but I did not know first hand how the media had perpetuated communal hatred and prejudice and had turned ordinary students into hate-filled beasts. One such student was Deepak studying law. Deepak would actually sit at his window and spit out abuses at Muslims. He was a neighbour of Geelani and would watch him closely. Slowly Deepak discovered that Geelani and his friends did not seem to fit into the image he had of Muslims. Perhaps this was the first time he was seeing Muslims from such close quarters. Deepak befriended Geelani and the latter accepted his friendship. Deepak even kept rozas during Ramzan and used to break his fast with Geelani and his friends. On one occasion when Geelani and his friend Ayub went to the city for Iftar, they found Deepak had not broken his fast and was patiently waiting for them.

Mr Prime Minister, I hope you will not think I am wasting your valuable time telling you sentimental stories. That is not my purpose. I feel that these stories show that our people are still not inherently communal, prejudiced or hate-filled. Our people have an infinite capacity to respond to sufferings and pain of others. That is what makes me so proud to be an Indian. I remember the enormous response of our people to the people of Bangladesh. But all that has been substantially undermined by the media and the Bombay film industry. I wonder whether you have seen the series of so-called patriotic films made in recent years that have portrayed Kashmiris, Pakistanis and Muslims as villains, demons and evil incarnate.

It is amazing that despite state-sponsored communalism people continue to live in harmony and peace. And so, despite all the negative attitudes Geelani faced, he continued to live in accordance with his values and principles refusing to either become communal or to give in to fear. That is why he chose to rent a house in Mukherjee Nagar (rather than a "safe" Muslim neighbourhood) near Delhi University once he got his job as a lecturer in Zakir Hussain College and had to move out of his hostel.

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Life of a Kashmiri Muslim Family in Delhi

It was in December 2000 that Naresh and Mamta Gulati rented out their barsati at 535, Mukherjee Nagar, to a soft-spoken Kashmiri lecturer at Delhi University, Sayed Abdul Rahman Geelani. They rented out the two rooms and a large verandah on the second floor for Rs 3,500. Their only condition was that the two families would share the verandah for hanging clothes and Mamta would come upstairs to light a small lamp near her tulsi plant.

The Gulatis never had any cause to complain and at the end of the 11-month lease Naresh did not even bother to have a written agreement when he extended the lease to the lecturer.

Geelani left home by 7.30 am in order to be in time for his eight o'clock classes. He took classes for the Advanced Diploma in Arabic and the MA classes at Delhi University. Most of the times he would not return for lunch and went straight to Zakir Hussain College where he taught undergraduates in the evening college. Often he returned late in the night because he was busy finishing his thesis at the Delhi University library, which was open till late.

Geelani had already submitted his M Phil. The subject of his M Phil was on the literary contribution of Allama Anwar Shah Kashmiri. And it was already published. He was working painstakingly on his PhD. He had collected vast amounts of material on the biographies of the Prophet by scholars in India and Egypt. The thesis was complete but it needed to be typed. Geelani had only one copy of his handwritten thesis in Arabic. Geelani could never master the computer.

The 31-year old Kashmiri lecturer had moved in with his wife, Aarifa and son Aatif aged three. Nusrat, their daughter aged seven, was studying in Kashmir. She had come to Delhi for her holidays in December 2001 and Geelani was hoping to get her admitted to a good school. Living with them was the lecturer's younger brother, Bismillah, Aarifa's younger brother, Inayat and a cousin, Muzamil. All the three young men were studying.

Geelani valued education. He encouraged everyone in the family to study and his home was always full of nephews, cousins and relatives wanting to study. He encouraged his wife to learn English and computers. In fact, education was a passion with him.

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Geelani once told me that even before he had graduated he had a desire to open a model school in Kashmir and to work hard so that it could grow into an university as well. He had seen how ignorant the villagers were and so susceptible to exploitation. It was only through education that people would understand the reasons why Kashmiri people are in such bad straits.

Perhaps I have been able to convey a little of Geelani's personality, Mr Prime Minister. I have not wasted your time telling you of his mischievous side. How he played practical jokes and teased his friends or how he spent nights reciting poetry with his friends over cups of tea. I also did not bother you with the details of his innumerous friends and his love of cricket.

I think it is important for me to describe the last few days before Geelani was suddenly arrested from a bus near Khalsa College on his way to the Mall Road Mosque.

December 12, 2001 was just another day at 535, Mukherjee Nagar. It was the month of Ramzan and the family had arisen early in the morning for saheri. Geelani got a call from Srinagar from his friend Adil. Adil knew his friend would be awake for saheri and he urgently needed his friend's mature advice. He was hoping to see Geelani in Srinagar for Eid. But Geelani had decided not to go home since he had only one day's leave. Besides he was keen to get his thesis typed and submitted.

This was the same Adil with whom Abdul Rahman had spent his first days in Delhi looking for a place to stay. Adil had done his post graduation in linguistics and was now teaching in Kashmir University.

Adil of course did not know that the call he made to his friend for advice on matters of the heart would be treated with suspicion and he along with his father would soon be arrested and kept in detention for several days.

That evening Geelani went as usual to his college. He was a familiar figure in the staff room. He had joined in 1997 as a guest lecturer and was confirmed in 1998. Since Eid was only four days away, most students were absent, so he did not take classes on that day. However, his colleagues had extracted a promise from him to take them to Galli Bulbuli Khan where a Kashmiri made

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specially succulent kebabs. The teachers had tasted the kebabs many a times but they wanted to eat them fresh and hot at the outlet. The Kashmiri kebabwala came down to Delhi every winter and his special clients looked forward to the treat.

It was a happy and carefree group of teachers who set out late in the evening. The teachers were disappointed that the Kashmiri had not opened his shop that evening. They decided to eat kebabs in another nearby joint and some even packed kebabs to take back to their homes. On the way back they met the Kashmiri who told them that he would open the shop only after Eid. The teachers decided to come back another time.

None of these teachers had the courage to give evidence in the court that one day before the Parliament was attacked they had compelled Geelani to take them to Old Delhi for kebabs.

Abdul Rahman arrived home late that night. It was the Shab-e-Qadr night. The family had semolina phirni that Aarifa had made especially for the occasion. Then they had tea and watched TV. Then Geelani reminded Aarifa that it was time for namaz and ibaadat. Aarifa told her husband to switch off his mobile so that they are not disturbed while they offered namaz. But Geelani thought people may phone, because people did phone and seek his advice on various maslas such as, whether a roza can be kept if the person had not got up for saheri, etc. Besides, this was the night when Muslim friends phoned each other and asked that they be remembered in each other's prayers.

Geelani too phoned friends to ask them to remember him in their prayers. He called a teacher in Jamia. Later, Geelani's Manipuri friend Bimbisar called to say that the Old Delhi kebabs were really good. Another acquaintance Shaukat Guru also called. Shaukat was a Kashmiri and Geelani had met him ten years ago at the Mall Road mosque behind Jubliee Hall. That is where Delhi University students went to offer Friday namaz. In fact Geelani had met many other Kashmiri students at the mosque and after Friday namaz they would often stroll to the hostel and sit around chatting over cups of tea. Shaukat was doing a course by correspondence and also trying to eke out a living. Later, Shaukat introduced his cousin Mohammad Afzal to Geelani.

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Shaukat was rather a flamboyant man, tall and handsome. He fell in love with a lively Sikh woman called Navjot Sandhu. She defied her family and married the Kashmiri Muslim. Then she became known as Afsan Guru. Her father, a gentle Sikh gentleman, accepted his son-in-law and said that Sikhism itself was so deeply influenced by Islam. He gave his son-in-law a truck to do fruit business but that did not really get off the ground and the couple who were expecting their first baby, dreamt of migrating to Australia where Navjot's brother lived with his family. Navjot could have hardly guessed that she would have her baby in Tihar Jail.

Shaukat called that evening to ask Geelani to remember him in his prayers and to ask whether Geelani was going to Srinagar for Eid.

On December 13, 2001 the family got up late because they had been up all night. By the time Geelani got up Inayat had left for Hamdard University for a class. The carpenter had come to complete a bed and Geelani was fastidiously supervising him. It was past noon when Naresh Gulati came rushing upstairs and asked Geelani whether he knew what had happened? Geelani said no. Naresh asked him to switch on his TV.

Geelani switched on the television. The TV channels were broadcasting live an attack on the Parliament. It was a bizarre scene. Aarifa and Bismillah joined them. Just then Geelani got a SMS message from his cousin in London about the Parliament attack. Geelani messaged him back saying whoever planned the attack could not be a friend of Kashmiris.

That was Geelani's spontaneous reaction but we had no way of putting this on record because AIRTEL, which gave the police Geelani's phone records, did not keep any record of messages sent by SMS. And so the courts had no way of knowing what Geelani's reaction to the attack was.

Aarifa voiced her concern first "*Ab Kashmiriyon ki shaamat ayegi*" (Now Kashmiris will get into trouble). Then she suddenly remembered that her brother was in college. She asked Geelani to phone and find out whether he was all right. Geelani reassured her that Inayat would be safe. After all, the bus route was far from the Parliament. He was never the one to give in to panic.

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That evening Geelani started for college when Bismillah and Aarifa begged him not to go out. He laughed and said they should not over-react. Bismillah could never understand his brother's optimistic outlook. Why did he not see how Kashmiris were easy targets? Bismillah had seen how Kashmiri men were routinely picked up every January 26 and August 15 on mere suspicion. He used to go to visit a friend working in the New Sabzi Mandi Azadpur Branch of J & K Bank. He had learnt that Kashmiri boys coming with trucks found it difficult to rent rooms. He had seen 15 boys sharing one room in Adarsh Nagar. The police often raided these rooms, beat them up and sometimes locked them in jail only to release them several months or even years later without ever filing a chargesheet. If you ask the Home Ministry guys they will of course deny all these facts. Mr Prime Minister, may I suggest that you visit Tihar Jail around Independence Day or Republic Day? You will see swollen faces of Kashmiris who have been beaten and tortured by the convicts at the behest of the jail authorities. Mr Prime Minister, I would like to warn you that you should not announce your visit beforehand otherwise the jail will be spruced up and the anguished voices of the Kashmiri prisoners will never be allowed to reach you.

That day, on December 13, Bismillah and Aarifa had good reason to caution Geelani not to venture out, but Geelani was never the one to give in to fear. Besides, he had promised one of the college peons that he would give him walnuts from Kashmir. It was only three days before Eid and he was worried that the peon may take leave. And so, Geelani went to college. He sat with his Principal discussing the Parliament attack and returned home in time for dinner. That night the whole family sat together and had their meal. They were totally unaware that the next day their family would be torn asunder and they would be pushed into a dark hole from where few return to tell their story.

Mr Prime Minister, you may wonder why I have told you so many useless details about one man's life. After all, I had begun by saying I wanted to tell you about the conditions of prisoners in Tihar Jail, especially Kashmiri prisoners. I have not lost sight of my objective but I believe unless we begin to understand each man's

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story we will never be able to really understand the reality of the men locked inside the high security cells of Tihar Jail.

I want you to know that Geelani was about to go to that black hole called the high security cell of Tihar Jail. I want you to feel a little of the pain and humiliation he felt because you are our Prime Minister and you must know the pain of the citizens of this country. You must also know how law enforcement officers have acquired vast powers to violate the law and the spirit of our Constitution. How they are able to commit heinous crimes in the name of our nation.

The journey to the Tihar Jail's high risk cells is through the Police Station at Lodhi Road from where the Special Cell of the Delhi Police operates.

Special Cell of the Delhi Police at Work

Mr Prime Minister, how can I convey to you the outrage I feel? Before my eyes I have a series of images, and I can neither block them out of my memory nor am I able to give them shape in words. So let me describe the images that haunt me:

Image One: Plainclothesmen pulling Geelani out of a bus on December 14, 2001, putting him into their Maruti car and driving away. Another car going to Tis Hazari J & K Bus Stop and nabbing Bismillah, Inayatullah and Muzzamil. Later in the night the policemen raiding Geelani's home in Mukherjee Nagar and forcing his wife Aarifa and two small children into their car and whisking them away to the police station. A few days later the police pulling out the quiet dignified Mufti Abdul Rahim, Geelani's brother, from his home in Baramullah and taking him to a detention house. And then dragging out Adil Amin and his father to a detention centre where they can see remnants of torture. All these people, men, women and children wrenched from their homes in the grips of state power.

Image Two: The men of the Special Cell making Geelani take his clothes off in the verandah of a beautiful villa with a green lawn and Ashoka trees. Hung upside down, the soles of his feet beaten and a constant volley of filthy abuse hurled at him. Then, Geelani

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being taken down and put on a slab of ice in a drawing room and again beaten till he is nearly unconscious. Half dressed, he is then dumped into a jeep and taken to the Lodhi Road Police Station.

Image Three: Geelani lying on the cold floor of the police station with chains on his feet tied to the table, and cold iron handcuffs on his hands. Blood coming out of his eyes, legs and hands. His children made to see their father and police threaten to rape his wife if he did not give a false confession that he was involved in the conspiracy to attack the Parliament.

Image Four: Geelani kicked, beaten and spat upon. The police continuously abuse him for being a Kashmiri, a Muslim and a Pakistani agent and being responsible for all the problems in India. They beat him continuously for nine long days and nights, trying to break this brave and courageous man who held on to his dignity and to his humanity.

Image Five: Policemen urinating into the mouths of Shaukat and Afzal. One policeman has an arm around another and asks him: "arre yaar tumne kyon nahi kiya?"

Image Six: On December 16, 2001, Geelani's family is released. One day before Eid. They leave the Special Cell with heavy hearts not sure when they will see Geelani again. The family returns to the house which was once a happy home. It feels like a cold shell. The feeling of being alone, without anyone to turn to, no one there to comfort them, facing hostility and realizing that they have become objects of fear and hate even for those who had till a few days ago been their close acquaintances, friends and neighbours.

Image Seven: Eid of 2001 at the Lodhi Road Police Station. The last time Geelani's family can touch him, embrace him or see him face-to-face. Soon they will see him only through bars and only once a year on the occasion of Rakshabandhan when Tihar Jail allows sisters to tie Rakhis on the wrists of their imprisoned brothers. On that day alone Aarifa would be able to take the children, so they can hug him, touch him and he can feel the warmth of their embrace.

Geelani told me that he felt that he as an individual was not the target of their abuse and hatred. It was as if he represented

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the entire Muslim community. His tormentors held that Muslims had spoiled the nation and one of them told Geelani that he was surprised that there were still so many left despite having killed off so many at the time of partition. One of them from Haryana told his colleague that it was only in Delhi that he realized what kind of person a Muslim was. And that it was all the fault of Gandhi and Nehru to have left these seeds to grow.

Why, Mr Prime Minster, does this happen right in the middle of the Capital of my country and no one dares to speak out? Why were these corrupt and communal policemen given gallantry awards and extra privileges not only by the Hindu fascist government of the BJP but also by your secular democratic government?

Tihar Jail

On December 23, 2001 Abdul Rahman Geelani was sent to judicial custody. The jail authorities tried to do everything to humiliate him. As soon as he entered the jail he was told to sit on a pile of shoes. The entire process of registering him was accompanied by abuses and vicious remarks about Kashmiris in general and Muslims in particular. Then he was subjected to a humiliating body-cavity strip search.

The jail authorities took away his jacket even though it was a bitter cold night and tried to take away his shoes but he refused to surrender to this indignity and go bare foot. He was taken to a ward which had been emptied out, so there was no one around. He was put into the darkest cell and then they put a thick blanket on the bars and blocked out all light. Then they brought cold dal in a plastic mug and stone hard *rotis*. They handed him filthy, torn black blankets. There was not even a mattress on the cold floor. The fog had entered into the cell through the open bars and the cell was damp, dark and filled with spider webs.

In the corner there was a toilet seat and a broken bucket with water. The security men refused to give him drinking water but the senior most warden brought him water in an earthenware pot with moss on the inside and the outside. Geelani remembers him as the only one who had preserved his humanity and told him lovingly: "Son, eat your food otherwise it will affect your health."

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They did not open Geelani's cell door for several days and he was kept in solitary confinement without even a visit from the jail authorities. The pain in his legs was excruciating and the cold made it worse but the doctor had already noted that everything was OK. When the jail authorities did appear it was to point out the grave of Maqbul Bhatt and tell Geelani that he too would soon be hung.

On that dark and cold night of his first day of solitary confinement the silence was broken by prisoners calling out: "Professor Saheb, Professor Saheb..." It was the Kashmiri prisoners showing their solidarity.

Geelani was not given a toothbrush, paste, soap, towel or a bucket. He was not even given drinking water. He finally got these basic items several days later when his family reached him and deposited some money. On that day when he went for his first mulaaqaat he discovered that another Kashmiri prisoner had bought these items from the canteen and sent them to Geelani, knowing well that the new inmate would not be given anything. Those things never reached Abdul Rahman and the Kashmiri prisoner who had shown his solidarity, Mirza Iftikar, was himself put into solitary confinement even though he had bought all those items legally and had sent them to Geelani through the official channel.

Mirza Iftikar had been in jail for more than a decade, an accused in the Lajpat Nagar bomb blast. Mirza Saheb maintains he is innocent. But when will he get an opportunity to prove it?

Mr Prime Minister, is a person not presumed to be innocent before he is proved guilty in a court of law after a fair trial? More than 70 per cent of India's three lakh prisoners are undertrials and they are being punished every day without even the hope of a trial, let alone a fair trial.

I am sure you know that Tihar Jail complex is one of the largest prison complexes in the world. From a small district jail in 1958, Tihar Jail has now 70,000 to 80,000 prisoners lodged in nine prisons. The Tihar Prisons website boasts that the system of imprisonment is called New Delhi Correctional Model and had been appreciated for encouraging community life.

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I was shocked to learn that the jail authorities actually demolished two structures used by Muslim prisoners for offering namaz. Even on the occasion of Eid, Muslim prisoners are not allowed to offer collective namaz as required by their scriptures. In fact, every attempt of the prisoners in the high risk cells to form a community, to teach each other Urdu or English and Quran was systematically sabotaged and the prisoners were transferred to different wards.

On one occasion when prisoners were transferred to Jail Number 1 where Geelani was lodged, he told the canteenwala to give the newly transferred prisoners soap, toothpaste etc since the jail authorities invariably took time to transfer the accounts. It was an act of solidarity. The jail authorities initiated an inquiry to find out how the canteenwala was supplying these items to people when they did not have coupons. The canteenwala said that Geelani Saheb had given him his coupons. The jail authorities instituted an enquiry into how Geelani was "financing" other prisoners. Incidentally, there is no rule which forbids a prisoner from using his coupons to buy items in the canteen for another prisoner.

The canteenwala was punished and called for a '*peshi*'. In Tihar Jail the authorities organize a spectacle every week to satisfy the sadistic beast that resides in their soul. Convicts are made to beat prisoners and devise cruel ways to inflict pain and humiliation on the victim. This is the way criminals are forced to become brutalized and there is no possibility of reform once the person is caught in the web of corruption, brutalization and crime inside the jail. Even a simple gesture of humanity is not tolerated and is immediately punished severely, mercilessly.

I have been to jails and detention centres in at least 15 states in India from Manipur to Bihar to Andaman Islands. I can say that the experience has been nauseating each time. And there are plans to build more and more of these notorious institutions, which will manufacture more and more criminals. Mr Prime Minister, we already have 98 Central prisons, 266 District prisons and 671 sub-prisons. More than Rs 100 crores has been sanctioned for building six more prisons in and around Delhi. In 2002-03, Rs 270 crores was released for jail construction and renovation. Why?

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USA has the largest prison population in the world with two million men, women and children locked away in jails. This means they have 686 prisoners for every 100,000 people. This has not checked the rise of crime. By putting more and more people in jails no problem can be solved. This is not something that I am saying. The International Centre for Prison Studies has noted that there is "little evidence that high levels of imprisonment result in lower levels of crimes. On the contrary, one can make a case that many of the countries which have high levels of imprisonment also have high levels of crime."

Mr Prime Minister, I am particularly concerned about a special category of prisoners: victims of the war against terrorism. Most of these victims are Muslims. We saw the absurdity of this war against terrorism when we heard how the North West Airlines arrested 12 Indian citizens (all of them Muslims from Mumbai and one from Hyderabad) and detained them on mere suspicion. The majority of prisoners in this war against terror, whether in the West or in India, are Muslims. And a large number are targeted only because they are Muslims. Thus they are really political prisoners.

The most disturbing aspect about India's war against terrorism is the report that India airlifted Kashmiri, Arab and Pakistani prisoners from Afghanistan where they were being detained by the anti-Taliban northern alliance. The details were published in *The Millie Gazette*, a leading Muslim newspaper. So, now we not only have more and more prisons but we also have secret jails. The Sachar Committee has only pointed out that there is an over representation of Muslims in jails. They have not visited those in the secret detention centres.

Where are we heading, Mr Prime Minister? It is not the Indian madrasahs that are the breeding ground for terrorism but the jails and illegal detention centres run by communal officers fed on Islamophobic ideology of the US-led war against terrorism.

Geelani's story is an illustration of how far this war against terrorism has already eroded the democratic foundation of our fragile Republic. Mr Prime Minister, you may well ask me whether there was any evidence at all against Geelani. After all how can the Special Cell officers pick him up and torture him without having

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some evidence. Mr Prime Minister, there was no evidence against Geelani. It was a case of no evidence.

The Case of No Evidence

What shocked me, Mr Prime Minister, was the fact that the Special Public Prosecutor went to such great lengths to persuade the Judges to reinterpret and change the basic principles of criminal jurisprudence in order to hang Geelani. The policemen of the Special Cell lied on oath in the court, fabricated evidence and forged documents including the arrest memos of the accused in the Parliament attack case. Under the criminal law of the land it is an offence punishable with death to deliberately frame a person in a crime. But these policemen of the Special Cell seem to have acquired impunity and are above the law.

The day Abdul Rahman was sentenced to death these police officers came to Sessions Court in freshly ironed shirts and polished shoes with satisfied smiles plastered on their faces. They allowed supporters of Shiv Sena to burst fire crackers and shout slogans like death to Geelani's lawyers and to the accused. The day he was acquitted by the High Court, these men gave public statements that they would send him back to death row.

And then there was an attempt to assassinate Geelani on February 8, 2005, right outside my house. People around the country spontaneously felt the police was involved in the attempt. Even the *India Today* Instant Poll showed that 60.26 per cent of the people believed that the police were behind the murderous attack on Geelani.

Attempt to Assassinate Geelani

I shall never forget the loud banging on our front door that night. Fear gripped my insides. My husband opened the door to find Geelani. He said, "I have been shot. Take me to the hospital."

It was a day that changed my life in many ways. I know that the police and security forces resorted to false encounter deaths. Human rights activists have been documenting them for more than three decades. But this was an assassination plot which was even

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more insidious because I believe intelligence agencies were directly involved. And there was no way to make these dark and shadowy men accountable.

Mr Prime Minister, in the days after the assassination I saw how cynical the system could be. While people demanded an impartial enquiry into the crime the intelligence agencies took the opportunity to investigate into our lives. Even on the night of February 8, when Geelani was lying in hospital battling for his life, the intelligence agencies had a retired colonel who lived in my colony tell the viewers on national television that no such incident had occurred because he had been taking a walk around that time and he had neither heard anything nor seen anything.

It was later that a serving army officer testified to the investigating agencies that he had heard the shot and had seen Geelani run towards our house and also seen my husband and me take him in our car. Right from the time of the assassination attempt, the intelligence agencies were trying to frame my husband, Geelani's brother and me in the case. The police spread a rumour that I had told lies to the police and made up the story. To prove their case they pointed out that there was no blood either in my house or in our car in which we had taken Geelani to the hospital. The media published these stories.

I was a suspect in the eyes of the police and the media. No journalist bothered to ask a doctor why there was no blood. If they had asked they would have been told that there was no external bleeding because there were no exit bullets. Three bullets are still lying buried inside Geelani's flesh.

Geelani was served with a notice by the Inter State Cell, Crime Branch, on March 11 that "in case of any complication in future if doctor removes these or any other bullets, you are requested to inform the doctor about preserving the bullet leads so that these bullet leads could be seized as material piece of evidence."

Mr Prime Minister, please read the case diaries in FIR No 53 of 8.2.05 of PS Vasant Vihar. You will see how the Inter State Cell, Crime Branch, Chanakyapuri, New Delhi (or was it the intelligence agencies) travelled all the way to Ukhrul to investigate into the antecedents of my husband's political past, while *The Pioneer*

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screamed that my husband was a member of the NSCN and that organization was involved in the murder attempt.

Then you would find that they went to Wayanad to investigate into the antecedents of Vinod K Jose, the young journalist who had been working with our defence team. In fact the local police told him not to return to Delhi.

I really would like to know how much of tax payers' money was spent on their travels from Manipur to Kerala? The intelligence agencies (including the Special Cell) interrogated all of Geelani's friends, his family and even the staff member of his college who had sold his car to him, and the landlord who had sold his fourth-floor flat to him. They even picked up the computer which Geelani had bought for his children; and they said they found a "blood soaked sweater of Geelani's in his house". Actually the young doctors had forgotten to put Geelani's clothes into a sealed bag and hand it over to the police.

It was at this juncture that I had phoned your office. I did tell your Secretary if this harassment was somehow a part of our national policy then I had nothing to say but if it was not, then at least Geelani's brother should not be harassed. This was after they had called him four times to give his statement and I could not bear to see them harassing the family, which already had been through so much. The harassment did stop.

Mr Prime Minister, the intelligence agencies put pressure on the hospital to discharge Geelani. They gave press statements that he had "refused" to give his statement and co-operate with the enquiry. That was the day when Geelani lay with an open wound and tubes stuck in various parts of his body, without having had even a sip of water. It took an intervention of the Delhi University Vice-Chancellor to stop the hospital from discharging Geelani.

Then the intelligence agencies attacked the premier hospital of our country and made the Delhi Administration set up another team consisting of doctors from Maulana Azad Hospital and policemen to examine Geelani. They took dozens of x-rays of him in various positions and added to the pain he was suffering.

Perhaps you want to know how I came to this conclusion that the police or the intelligence agencies were involved in this attempt

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to murder. I confess I have no great skills at detective work but there are some obvious pointers.

First, how did the assassin know that Geelani would be coming to my house that night? In fact Geelani and I had met in the Supreme Court that afternoon and decided not to meet that night. He had gone to his college and I had returned home. It was only after five that I realized I needed to ask him something urgently. I phoned and asked whether he could drop in on his way home and he said he would. He arrived four hours later. No one knew that he was going to come to my house except for us, unless of course someone was tapping our phones. Who has the facility to tap phones?

Second, the Special Cell had singled out Geelani and carried out a pernicious campaign against him by planting highly defamatory stories against him, from December 16 to December 23, 2001. These stories were supposed to be based on confessions Geelani had made while in police custody, but it turned out that Geelani never made a confession. He had none to make. Then one year later the police helped Zee TV to make a film that once again vilified Geelani. The film earned the appreciation of the then Home Minister, Mr L K Advani.

Third, the Special Cell organized a media conference on December 20, 2001 at their Lodhi Road Police Station. The main objective of that conference was to make Afzal frame Geelani. Instead Afzal told the media that Geelani was not involved. Later the officers of the Special Cell denied any knowledge of the media conference, in the court on oath.

Fourth, ever since Geelani had been acquitted he was followed all the time. They were outside Geelani's college, they followed his every movement. And there were plainclothesmen outside my house every day. Where were they that night?

Fifth, the police had tried to disrupt a series of meetings in which Geelani was to speak. They had also tried to stop the display of our exhibition of posters entitled 'Lies of Our Times' depicting the trial of Geelani.

Sixth, as was mentioned earlier, they even disrupted a meeting organized by the local Municipal Councillor of Okhla, to felicitate Geelani because he had survived the attack and me for saving his life. Why this desperation?

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Mr Prime Minister, that night when Geelani was shot the police asked whom I suspected, and I said I suspected the Special Cell. In response the police had a press conference only to tell the public that my allegation that the Special Cell was involved was a figment of my imagination. That was on February 9, 2005. The police was under pressure to come out with an alternative theory and the Delhi Police began building one. Their distorted imaginations could think of only one theory: the involvement of the ISI of Pakistan. And they began constructing it the same day as they had their first press conference.

Framing Kashmiris

On February 5, 2005, a Kashmiri man arrived in Delhi. His name is Mohammed Ahsan Untoo. Four days later he was picked up from the Priya Guest House in Darya Ganj and taken to a police station. There he was stripped of his clothes, hung upside down and beaten till he almost fell unconscious. He was continuously tortured and was sodomized. The police made a member of the cleaning staff at the police station sodomize him. And all the time, he was told to make a false confession that he was involved in the conspiracy to murder Geelani.

The police then arrested another political activist Ghulam Nabi Najar and subjected him to the same treatment. He too was told to confess that he was involved in trying to assassinate Geelani.

The police even put stories in the papers that they had found clues about the murderers of Geelani and they were ISI agents. Demonizing Pakistanis at a time when we are trying to win their trust and friendship is surely not a good policy.

And now Mohammed Ahsan Untoo and Ghulam Nabi Najar are locked up in jail. Framed in a case under the Official Secrets Act for trying to pass on a document of 1957 to the Pakistan High Commission. Yes, Mr Prime Minister, the document is of 1957. It has been filed in the court, so now we can all have copies of it. That is how secret it is.

You will remember how a Kashmiri journalist, Iftikar Geelani was also framed in a similar manner. He had to spend nearly an

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year before the journalist community campaigned to get his release. But this time the media itself, rather a large section, is party to the framing of both Geelani in the Parliament attack case and now, Untoo and Najar.

These two Kashmiri men are now in Tihar Jail.

Making of a Kashmiri Political Prisoner

I do not know how many Kashmiri prisoners there are in Tihar Jail. Most of these men are locked inside the high security cells of the jail. They are denied basic facilities and are subjected to torture and brutalities inside the jail, and often their lives are in danger. There were at atleast two attempts on the life of Geelani while he was in jail.

A convict was put into his cell deliberately by the jail authorities and ordered to attack Geelani with blades. We filed complaints, first before the Sessions Court and then before the National Human Rights Commission. The jail authorities maintained that this was impossible because blades were not allowed inside the jail. The court and the NHRC accepted this explanation.

More recently, two other prisoners have been attacked inside the high security cells of Tihar Jail. They have been badly injured and are lying in hospital. I have details of other atrocities, brutalities and crimes committed by the jail authorities. Where do I go and file a complaint? If I feel so helpless despite being a lawyer and well-connected in society, what do you think the Kashmiris feel? Can we win the hearts and minds of the Kashmiri people by treating them like subhuman beings?

Mr Prime Minister, it was this experience that I so desperately wanted to share with you. I wanted to ask you to allow me access to the jail and give you an independent report. But when I met you next it was at Chandigarh at the inauguration of an international seminar in November 2005 on the occasion of my father's birth anniversary. The theme of the seminar was 'Regional and Global Terrorist Threats: The Way Out'. I was shocked that our international guests consisted of Israeli and Russian citizens, many former members of KGB and Mossad. There was a lot of talk about Islamist fascism but when I mentioned Zionism, the Chair told me I had vitiated the entire proceedings. Every Muslim in the audience

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whether he was from Kashmir, India, Pakistan or Bangladesh felt uncomfortable and these were all Muslims who had been fighting terrorism, sometimes at great risk to themselves.

Mr Prime Minister, as you take our country closer to USA and Israel you also make us allies of two of the world's most hated states. If India is to become a major world power as a low cost ally in support of low end tasks in the US war against terrorism we become party to massive violations of human rights and international humanitarian law.

Mr Prime Minister, what happened to the India of my father's dreams? Even more importantly, what happened to the dream of thousands of martyrs of India's struggle for freedom against colonialism and imperialism?

I do not expect that you will reply to my letter, Mr Prime Minister. But please give a thought to the political prisoners locked in cages in Tihar Jail. It is just a few kilometres away from your residence.

Thank you for your patience.

Yours most sincerely,

Nandita Haksar

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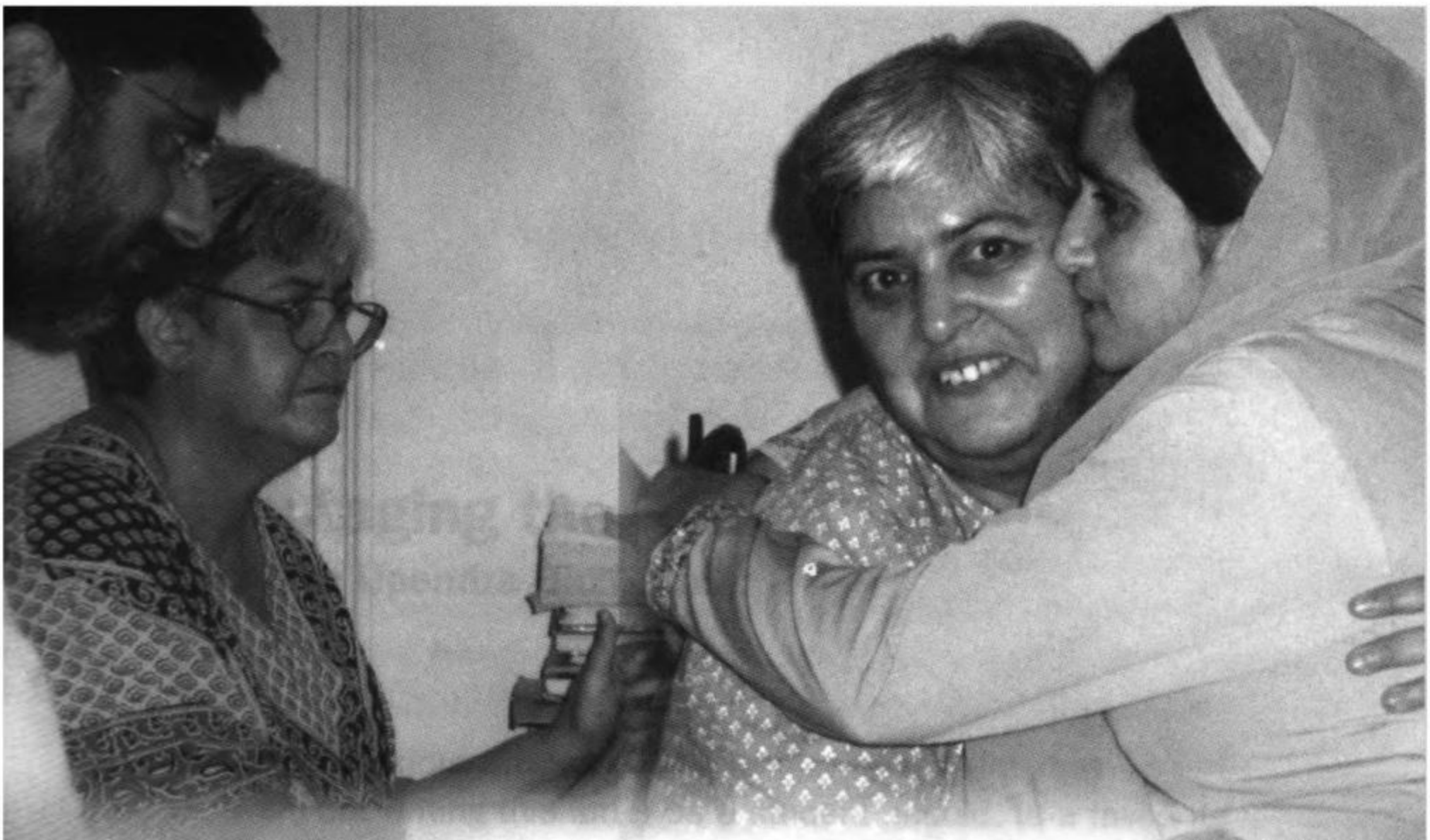

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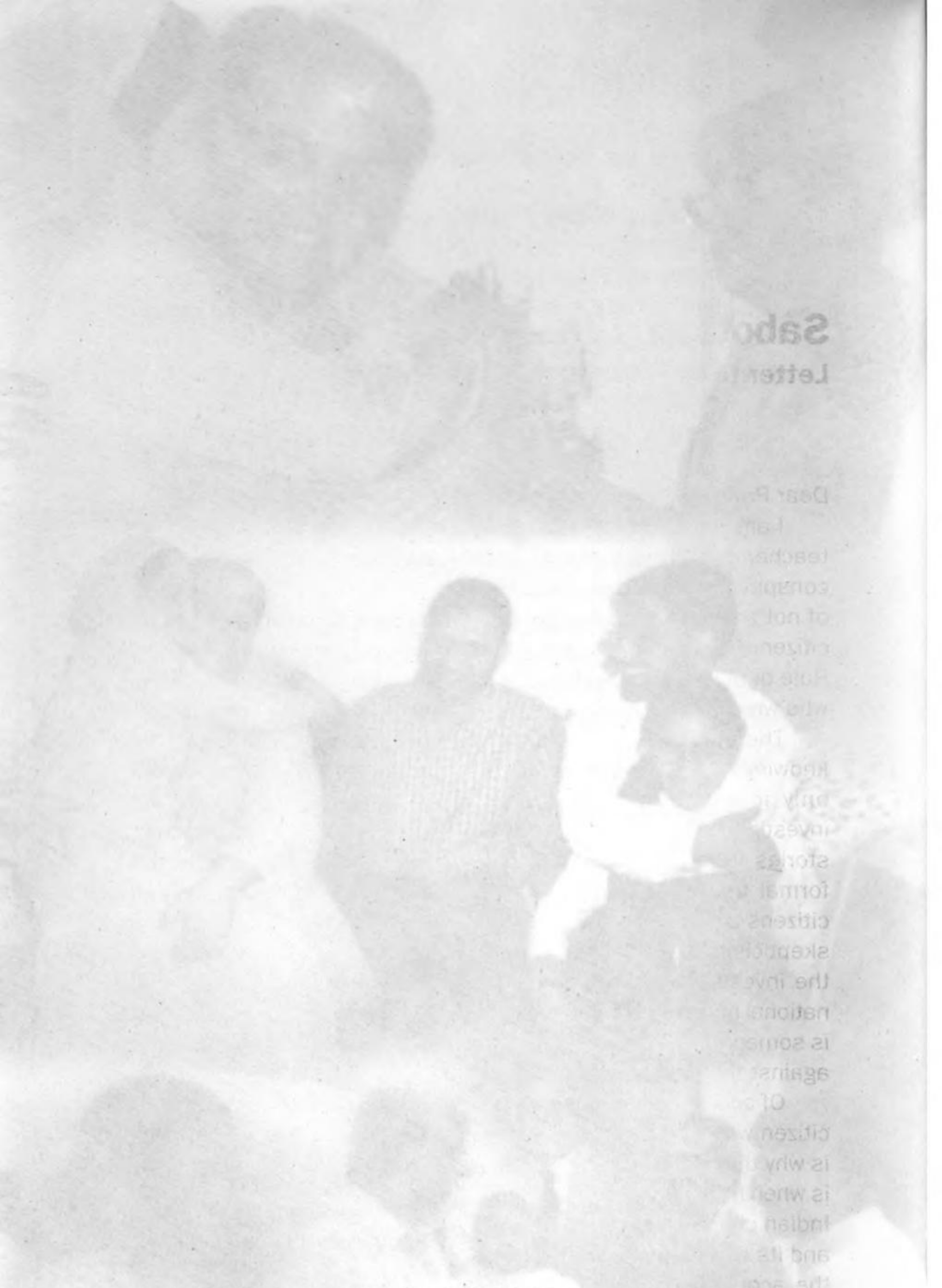

Geelani celebrating his acquittal with his family and lawyers: Ram Jethmalani, N D Pancholi, Kamini Jaiswal and Nandita Haksar.

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Sabotaging the Rule of Law

Letter to Upendra Baxi, Jurist

Dear Prof Upendra Baxi,

I am not writing this letter as a student should, to a favourite teacher. I am writing to you to charge you of being a part of the conspiracy to frame and murder an innocent citizen. I accuse you of not speaking out when you were perhaps one of the few Indian citizens, who was in a position to know and understand how the Rule of Law was being sabotaged by the communal-fascist forces, who were in power at the centre during the coalition led by the BJP.

The majority of our fellow citizens did not have any means of knowing the facts about the Parliament attack case because the only information they had was the version provided by the investigating agencies. And the investigating agencies planted false stories in order to frame and condemn a man even before the formal trial in a court of law could begin. It is true that Indian citizens did abdicate their responsibility by suspending their usual skepticism about the police and chose to believe the media and the investigating agencies. It was the fear of being dubbed anti-national by the ultra-nationalists that made them forget that a patriot is someone who must always be ready to defend his or her country against the government.

Of course Indian citizens did not like the fact that an innocent citizen was going to be hanged in the name of their country. That is why they greeted the man's acquittal as if it was a miracle. That is when they committed another violation of the Indian Constitution. Indian citizens were guilty of abdicating their duty to their country and its democratic and secular Constitution when they celebrated the acquittal of an innocent citizen. It was not their celebration alone that was wrong but the fact that they did not demand that the police who had framed the innocent man, the judge who had

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convicted the man without any evidence, and the jail authorities who had tortured and humiliated him, be punished.

The only mitigating factor is ignorance. They did not have access to all the facts, records and evidence.

But you, Prof Baxi, cannot take the plea of ignorance. I charge you, one of our country's best-known and loved jurists, of not upholding the values and principles enshrined in our Constitution. You did not speak out when the system was being sabotaged. You did not speak out even when the Parliament, the judiciary and the executive made a mockery of all the principles that together constitute the Rule of Law. You cannot plead ignorance because ignorance of law is no defence, not for a jurist of your international standing.

I realize that I am making serious charges against you and the burden of proving them is on me. I shall discharge that burden. It is not a difficult task. I shall place the facts as they are on record. I shall not give citations or quote precedents. There is no need to, the facts speak for themselves.

I. RULE OF LAW AND THE INDIAN PARLIAMENT

The Indian Parliament was attacked on December 13, 2001 in which eight security personnel, one gardener and the five attackers were killed; 13 security personnel and three others were injured. The successive governments have not told the Indian citizens the facts relating to the actual attack even though it led to serious tension with our neighbouring country and could have even led to a nuclear war. The identity of the five attackers or the organization that planned the attack was never made public. I did call for a white paper on the entire episode. You should have supported the demand because you know that would be the only way of ensuring transparency in governance.

The Facts

The media announced that the Indian Parliament was attacked by six men and five had been killed in the exchange between the security men and the attackers. After the first few hours of reporting

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there was no more mention of the sixth attacker. We do not know how many men actually attacked the Indian Parliament.

All that we, the people, were told was that the Indian Parliament was attacked by six terrorists, of whom five were killed by our security forces. No one reported what happened to the sixth. Mr Priya Das Munshi, who was then Congress parliamentary party chief, was one of the first politicians who had claimed just after the attack that six people had attacked the Parliament. He had made this statement after seeing the sixth man coming out of the white ambassador on the closed circuit television. Journalists said that the then Delhi Police Commissioner Ajai Raj Singh had also conceded that there might have been a sixth person involved.

We do not even know who attacked our Parliament. In the first few hours the then Home Minister made a statement that the attackers were Pakistanis because they looked like Pakistanis. I do not think there is a legal definition of what a Pakistani looks like.

The official statement was made by Shri Jaswant Singh on behalf of Mr L K Advani in the Rajya Sabha, on December 18, 2001:

> The ghastly attack on Parliament House on 13th December, 2001 has shocked the entire nation. This terrorist assault on the very bastion of our democracy was clearly aimed at wiping out the country's top political leadership. It is a tribute to our security personnel that they rose to the occasion in averting what could have been a national catastrophe. In so doing they made the supreme sacrifice for which the country would remain indebted to them.
>
> It is now evident that the terrorist assault on the Parliament House was executed jointly by Pak-based and supported terrorist outfits, namely Lashkar-e-Taiba and Jaish-e-Mohammad. These two organizations are known to derive their support and patronage from Pak ISI. The investigation so far carried out by the police shows that all five terroists who formed the suicide squad were Pakistani nationals. All of them were killed on the spot and their Indian associates have since been nabbed and arrested....
>
> The break-through in the investigation of the case was achieved with the arrest of Syed Abdul Rehman Gilani, a lecturer in a local college, whose interrogation led to the identification of

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> two other accomplices, Afzal and Shakat Hussain Guru. The wife of the latter disclosed that her husband and Afzal had in the afternoon of 13th December, 2001 left for Srinagar. This information was immediately conveyed to the J&K Police who apprehended both of them. A laptop and Rs.10 lakhs in cash were recovered from them. They were brought to Delhi by a Special Team deputed for the purpose by Delhi Police.

Even as the Home Minister was giving his statement to the nation he knew there were many contradictions in the police story. The first glaring contradiction was on the time of arrest. The Delhi Police claimed that the first person arrested was Geelani as he was entering his house on December 15 at around 10 am. They claimed that it was on the basis of the information he gave that they arrested Shaukat and Afzal at around one in the afternoon in Kashmir. But the Kashmir Police told the court that they had arrested Shaukat and Afzal on the basis of information they got at 6 am. Why was the Delhi Police not telling the truth about the time, place and date of arrest of the accused?

In course of the trial two of the four persons charged with conspiracy to attack the Indian Parliament proved to be innocent. Even Mohammad Afzal Guru, who was sentenced to death for conspiring to attack the Parliament, was acquitted by all three courts of charges of belonging to any terrorist organization or gang.

During the trial, the Prosecution did not produce a single witness who even alleged that any of the four belonged to any illegal organization. The judgement of the Sessions Court states: "No evidence has come on record that any of the these three accused persons belonged to or professed to belong to terrorist organizations Jaish-e-Mohammad or Laskar-e-Toiba. I therefore, consider that section 20 of the POTA is not made out against them." (Para 281)

The Prosecution did not lead any independent evidence to prove the identity of the five deceased attackers. The investigating agencies' version is that Afzal identified the five as Mohammad, Raja, Rana, Haider and Hamza. Afzal stated that he only identified Mohammad and he did not know any of the other four.

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The chargesheet alleges that the attack was masterminded by three Pakistanis, Tariq Ahmed, Ghazi Baba and Maulana Masood Azhar. However, no evidence was brought on record to prove their involvement.

The investigating agencies told the media that a man called Mohammad at Gate No 1 of the Parliament was the same person who had hijacked the plane, flight IC-814 to Kandahar. Prosecution Witness 67 SI Badrish Dutt of the Special Cell was the prosecution witness who stated that Afzal had identified Mohammad as Berger. Why did this witness make such a statement?

The only evidence against Ghazi Baba that the Prosecution brought on record was phone records of the mobiles used by the five deceased terrorists who received calls from a satellite phone. The Prosecution stated that these calls from the satellite phone were from Ghazi Baba. However, the contents of the calls were not on record since these could not be intercepted. And the Prosecution could not prove this allegation.

The Prosecution stated that Tariq Ahmed belonged to a militant organization whereas Mohammad Afzal said he met Tariq at the Special Task Force (STF) camp.

The impugned judgement makes a series of statements stating that Pakistan was involved in the attack on the Indian Parliament and the five deceased attackers were Pakistanis. It states: "All five deceased terrorists were identified as Pakistanis by one of the co-accused. The bodies were kept in the mortuary for several days. No person in India claimed their bodies that showed that they were not Indians." (Para 220)

That is the only "proof" of Pakistan's involvement in the attack on our Parliament that was placed on record.

The proceedings of January 14, 2002 show that the Ministry of External Affairs filed an application asking permission to file "secret and other documents for keeping in sealed envelope". The learned Judge ordered: "Ahmad is directed to place the documents in sealed envelope and keep the same in safe custody under his lock."

Was this the secret source of the learned Judge's information that he could confidently accuse Pakistan of involvement in the attack without any evidence on record?

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The government was in a hurry to make political capital. Mr Advani made his political statement:

> This incident once again establishes that terrorism in India is the handiwork of Pakistan-based terrorist outfits known to derive their support and sustenance from Pak ISI. The hijacking of IC 814 Flight to Kandhar, the terrorist intrusion into the Red Fort and attack on J & K Legislative Assembly Complex at Srinagar on 1st October this year were master minded and executed by militant outfits at the behest of the ISI. Lashkar-e-Taiba and Jaish-e-Mohmmad in particular have been in the forefront on organizing terrorist violence in our country. The Pakistan High Commissioner in India was summoned to the Ministry of External Affairs and issued a verbal demarche demanding that Islamabad take action against the two terrorist outfits involved in the attack on the Parliament House.
>
> Last week's attack on Parliament is undoubtedly the most audacious, and also the most alarming, act of terrorism in the nearly two-decades-long history of Pakistan-sponsored terrorism in India. This time the terrorists and their mentors across the border had the temerity to try to wipe out the entire political leadership of India, as represented in our multi-party Parliament. Naturally, it is time for all of us in this august House, and all of us in the country, to ponder why the terrorists and their backers tried to raise the stakes so high, particularly at a time when Pakistan is claiming to be a part of the international coalition against terrorism.
>
> The only answer that satisfactorily addresses this query is that Pakistan – itself a product of the indefensible Two-Nation Theory, itself a theocratic State with an extremely tenuous tradition of democracy – is unable to reconcile itself with the reality of a secular, democratic, self-confident and steadily progressing India, whose standing in the international community is getting inexorably higher with the passage of time.
>
> The Prime Minster in his address to the nation on the 13th December, 2001 has declared that the fight against terrorism had reached a decisive phase. The supreme sacrifice made by the security personnel who lost their lives in this incident will not be allowed to go in vain. Those behind the attack on Parliament House should know that the Indian people are united and determined to stamp out terrorism from this country.

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Soon after this statement to the Parliament, the Government proceeded to begin one of the biggest land mining operations in the world along the Indo-Pakistan border. In that operation at least 150 Indian soldiers lost their lives.

And the relatives of the security personnel who were killed in the process of saving the lives of our Members of Parliament never got the compensation they were promised. Those who were injured were bypassed and not given promotions. But the police who had framed an innocent citizen were rewarded by the Government, both the previous one and the present one. The Judge who had sentenced an innocent citizen was promoted.

Indian citizens still do not know who attacked their Parliament and more importantly why it was attacked. In the UK they observed the first anniversary of the 7/7 (July 7, 2005) terrorist bomb attack by suicide bombers on the London underground train stations and a bus. The people, including the families of the victims are demanding a public enquiry. Questions are being asked whether the attacks could be linked to Britain's role in the occupation of Iraq. In India no one has even started raising questions about India's role and policy towards Kashmir.

Prof Baxi, do the people of India not have the right to know who attacked the Indian Parliament? Do you not think that this right is integral to a democratic rule of law? If you do, why has your voice not been heard?

The attack on Indian Parliament has been used by the Government to pass anti-terrorist laws and substantially lower the human rights standards in our country. Those who had tried to uphold the Rule of Law were not rewarded but those who set themselves above the law were rewarded. The Rule of Law has come to mean unconditional obedience to the state irrespective of the nature of state's commands, and not a means to inhibit state power. Parliamentary freedom has come to signify freedom of Parliament from the people rather than freedom of the people through Parliament. This has led to less transparency in the working of the Government and almost no accountability to the people. The primary victims of this so called war are the Muslims, and you can see this clearly in the fact that there is an over-representation of Muslims in all the jails of our country.

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Prof Baxi, are you not concerned by this turn of events?

II. RULE OF LAW AND THE INDIAN JUDICIARY

The Parliament attack case was extraordinary on several accounts. First, it was a case where the trial was finished in a record of five months, from July to November 2002. The court examined 80 Prosecution Witnesses and 10 Defence Witnesses and gave its judgement the next month.

There were 12 persons accused of conspiring to attack the Indian Parliament. Three were alleged to be Pakistanis, Mohammad Masood Azhar, Ghazi Baba @Abu Jehadi @Abu Saqlain and Tariq Ahmad. None of them were arrested and all of them were declared proclaimed offenders. In addition to these three, there were five alleged Pakistanis, Mohammad, Haider, Hamza, Raja and Rana. These were the five who actually attacked the Parliament and killed the security men and women, and in the process were themselves killed. The four people who actually stood trial were Mohammad Afzal Guru, Shaukat Hussain Guru, Sayed Abdul Rahman Geelani and Navjot Sandhu (Afsan Guru), wife of Shaukat Hussain.

Prof Baxi, I am writing to you about my client, S A R Geelani. I single him out because I know the facts relating to his case best. But I would like to state that none of the four have been given a fair trial and all the four people who were tried have not got justice.

How the Additional Sessions Judge, Shri S N Dhingra, Violated the Rule of Law in Sessions Case No 53/2002; FIR No 417/2001

Judge Dhingra's 296-page judgement is the first judgement in a major trial under the Prevention of Terrorism Act. It is also the first judgement to explicitly take judicial note of the war against terrorism and having done so, to draw a series of presumptions on terrorism and terrorists, which not only led to the sentencing of three men to death but also to substantially lowering the human rights standards of our country. Judge Dhingra can, of course, take judicial note of "hostilities between India and Pakistan" under

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section 57 of the Indian Evidence Act and he can make certain presumptions under section 114 of that Act. But Judge Dhingra does not state why he is taking judicial note of the war against terrorism and what bearing it has on his assessment of the evidence against the accused.

I think the judgement speaks for itself and if you had read it, it would have outraged your conscience. I will reproduce the relevant paragraphs on the war against terrorism.

Prof Baxi, you could include this judgement in your jurisprudence classes to illustrate indeterminacy of the law and how statutes, cases, precedents do not determine how judges decide cases. It shows how law does not constrain judicial decisions and the indeterminacy theorists could prove their case that the law is flexible, uncertain and transient.

The judgement begins with the following five paragraphs:

> The terrorism is scrooge of all humanity. It is being perpetuated and propagated by religious fanatics, to poison the minds of their followers and generate mercenaries and terrorists, to kill innocent persons. The aim is to create terror in the minds of people, so that their demands can be fulfilled. The number of terrorists outfits have grown manifold over the years. The terrorists have refined their planning, intelligence and actions. The horrifying aspect is that some rogue states, instead of waging war and facing the war, adopt to the method of the terrorism by sponsoring terrorist outfits and by nourishing terrorists and fundamentalists to serve their state interests. Some countries have been given to the misguided calculations that strength and stability of a nation depends upon its strength of destabilizing and bleeding other countries. The real danger is that terrorism has come to be seen as part of armoury of the state by some despotic and fundamentalist drug trafficking, states and their heads. Terrorism has emerged as surrogated warfare employed by such nations. The potential consequence of this culture is hard to imagine.
>
> 2. Terrorists have an obvious technical advantage. The terrorists use domestic and political weaknesses and can easily approach religious fanatics for their purpose and use them as tools for indulging into indiscriminate bombing, assassinations, kidnappings, hijackings and seizure of different places. There is an unholy nexus between terrorists and underworld criminal

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organizations. Both help each other and grow. Terrorists have at their disposal enormous money assimilated through ransoms, hijacking, etc. They have access to most modern weapons.

3. The world is galloping technologically. The same modern technology, which is used to serve the mankind, is employed by the terrorists to kill the innocent persons. Remote control devices are being used by terrorists for remote controlled explosions. Satellite phones, e mails, cellular phones are being used by them for planning and communicating. Computers are being used for creating false identities. With the advantage of modern technology and using advanced weapon, terrorists are capable of mass destruction and mass killings and to increase deadlines of terrorist acts. New sources of funding of their crimes – narcotics, hijacking, hostage, counter-fieting of currency, are being used.

4. People travelling in buses, trains, etc or praying in worship places, working in offices can be struck at any moment by terrorists. Strike by terrorists on World Trade Centre or at the theatre in Russia and at Akshardham temple in Gujarat and other temples in the country show reach of terrorists to destroy innocent lives.

5. But for the swift action and alertness shown by the security staff present at the Parliament House, this country would have paid a heavy price on December 13, 2001 when the terrorists planned to capture the Parliament of India. The terrorists' intention was absolutely clear. The writing on the fake Home Ministry pass, pasted by terrorists on the car bomb brought by them to Parliament read as under:

'INDIA IS A VERY BAD COUNTRY AND WE HATE INDIA WE WANT TO DESTROY INDIA WITH THE GRACE OF GOD. WE WILL DO IT. GOD IS WITH US AND WE WILL TRY OUR BEST. THIS EDIET WAJPAEE AND ADVANI WE WILL KILL THEM. THEY HAVE KILLED MANY INNOCENT PEOPLE AND THEY ARE VERY BAD PERSONS THERE BROTHERE BUSH HE IS ALSO A VERY BAD PERSON. HE WILL BE NEXT TARGET. HE IS ALSO THE KILLER OF INNOCENT PEOPLE. HE HAVE TO DIE AND WE WILL DO IT...'

6. The very reading of the above piece would show that the attack on Parliament was not the handiwork of few disgruntled individuals, but it was the handiwork of forces, who wanted to destroy this country and cripple it by killing or capturing its entire political executive including the Prime Minister of this country and captivate entire legislature and Vice President, who were present in the Parliament.

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7. Five persons, who got killed in the terrorist attack on Parliament were all Pakistanis. They were identified by their associate, Mohd Afzal (who is facing trial in this case) as Mohammad, Hamza, Haider, Raja and Rana.

At Para 42 of the impugned judgement Judge Dhingra states:

One handwritten letter was also recovered from the person of deceased terrorist Rana and the same is Ex PW 2/9. The language of the letter is reproduced hereunder only to show that the deceased terrorist's knowledge of English was very poor:

'DEAR SOMJ

I LOVE YOU VERY MUCH BUT YOU NOT GAVE ME A LIFT ARE YOU NOT ME LOVE SO IT YOU. BUT YOU NOT LOOK ME SLOW DAY AND NIGHT COM...SOON MUCH DO YOU MUCH DO YOU MY DEAR SLOW MUCHDO YOU THING NOTHING AND MOVE SLOW INTENT AND MORE – BEEN THOSE AND.....LOOK. THIS IS NOT COMING SLOW WANTED MUCH AND LOOKING SCHOOL...I SLOW WHAT – GOOD AND ME.'

The learned Judge uses this letter to come to the conclusion that Geelani was guilty of the crime of conspiring to attack the Parliament at Paras 238 and 239, which I reproduce in their entirety:

238. It is also to be noted that all deceased terrorists were hardly educated, their knowledge of English has been shown in the earlier paras. The note, which was found in possession of one of the deceased terrorist giving topography of Parliament has been very neatly prepared which shows that deceased terrorists were getting active help from the accused persons. The most educated among them was SAR Gilani. It is argued that Gilani was a lecturer. He was well behaved to his landlord. He could not have agreed for such an act.

239. There is no presumption that a lecturer cannot enter into such activity. It is a matter of common knowledge that terrorists are able to hire and convince even the best brains also for jehad. I consider that prosecution has successfully proved that accused Gilani was part of conspiracy for attack on Parliament.

The Judge goes on to discuss the charge of waging war and here, I reproduce his arguments on how he links the charge of

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waging war with war against terrorism; and how he makes presumptions in law after taking judicial notice of the war against terrorism; I quote Paras 251 to 259 verbatim:

> 251. To commit the offence of waging war or attempt to wage war or abetting the waging of war against the Government of India, a specific number of persons is not necessary either the manner in which they are associated is material. The true criterion is the purpose and intention with which the accused persons assembled and collected arms and ammunitions and attacked Parliament. The intention of the accused persons and their accomplices, who died in the attack, has been clearly written by them on the fake Home Ministry sticker reproduced above. To achieve this object they procured lethal weapons including AK 47 and AK 56 rifles, rifle-grenades with launcher, hand grenades, IED's car bomb and a lot of ammunition. They were equipped with communication instruments so as to enable them to communicate with their masters in Pakistan and Dubai. The laptop showed and proved their links with Pakistan. Extensive talks with persons in Dubai and Pakistan showed that they and the accused persons were receiving instructions from their Pakistani masters.
>
> 252. Section 57 (11) of Indian Evidence Act provides that court shall take judicial notice of the commencement, continuance and termination of hostilities between the Govt. of India and any other state or body of persons. This court can therefore take judicial notice of proxy war and hostilities of Pakistan and the hostilities of terrorist groups being sponsored by it towards India.
>
> 253. Lt. Gen. (retd.) Hamid Gul, who was the Director General of the ISI in the late 1980s, used to claim that keeping the Indian security forces bleeding with the help of the jehads was equivalent to the Pakistan Army having an extra division at no cost to the Pakistani exchequer. Gen. Pervez Musharraf, Pakistan's present military director, and other officers of the Pakistani military intelligence establishment share this belief.
>
> 254. The Islamic fundamentalist parties of Pakistan, which had created a number of pan-Islamic jehadi organisations with the ISI's help and the CIA's encouragement in the 1980s for use against the Soviet troops, had their own agenda against India. They wanted to use jehadi groups for "liberating" not only J&K, but also the Muslims in other parts of India. The ISI encourage them in their jehadi adventure against India. Starting from 1992-93, motivated and trained cadres of these

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organisations infiltrated in increasing numbers in J&K and other parts of India and ultimately took over the leadership of the terrorist movement in J&K.

255. After the US started its war against international terrorism in Afghanistan on October 7, 2001, the surviving cadres of these organisations fled to Pakistan where the ISI relocated them in Pakistan-Occuped Kashmir (POK) and the Northern Areas (Gilgit and Balistan) in order to use them to replenish the strength of the jehadi mercenaries in J&K and other parts of India.

256. The pan-Islamic Pakistan based organisations, Harkat-ul-Mujahideen (HUM), the harkat-ul-Jehad-al-Islami (HUJI), the Jaish-e-Mohamad (JEM) and the Lashkar-e-Toiba (LeT) all are members of Osama bin Laden's International Islamic front for Jehad. Their agenda extent to liberation of Muslims all over India and to working ultimately for the creation of an Islamic caliphat in South Asia.

257. Pakistan is providing financial and strategic assistance to these fundamentalist organisations. The arm and ammunition recovered from the terrorists in this case had Pakistani origin. The blood vessels of this monster of terrorism originate from Pakistan. Pakistan helps these terrorists to cross border and enter India. They are trained in camps held in Pakistan and the Pakistani Army provides them money and arms for doing terrorist activities in India. All such terrorist attacks which are made in India and in which innocent persons are killed, or attempted to be killed are the acts of waging war against Indian Govt. and the people. Waging war means acting like an enemy. To hold guilty a person for waging war, prosecution has to show

(i) That the accused arrayed himself in open defiance of sovereign in like manner as a foreign enemy,
(ii) There must be force accompanying the insurrection.
(iii) It must be for an object of general nature.
(iv) It also must be shown that the accused launched a planned operation and their intention was to overwhelm the state forces and to crush any opposition which they might meet until their movement succeeded.

258. In the present case all the above conditions are fulfilled. The three accused persons along with deceased terrorists planned an attack at the nerve centre of the state, i.e. Parliament House when Parliament was in session with the vowed intention of killing Prime Minister and Home Minister of India and capturing or killing rest of the political executives and legislatures. In order

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> to execute this planned attack, sophisticated arms and ammunition were collected at the hideouts. Five trained terrorists were called from J&K to Delhi and explosive devices were prepared and attack was made on 13th December, 2001 at 11.45 am. Nine security persons, who resisted and tried to stop them, were killed and sixteen others were injured before the security forces frustrated this attack and killed the attackers.
>
> 259. I therefore convict these three persons namely Afzal, Shaukat and SAR Gilani under section 121 IPC.

Having taken judicial note of the war against terrorism under section 57 of the Indian Evidence Act, Judge S N Dhingra then goes on to make a series of presumptions. Under section 114 of the Indian Evidence Act the court can make certain presumptions. The section reads: "The Court may presume the existence of any fact which it thinks likely to have happened, regard being made to the common course of natural events, human conduct and public and private business, in relation to the facts of a particular case."

The series of presumptions that Judge Dhingra makes are based on his own views, prejudices and uninformed analysis. It does not strike him as being odd that Islamic militants should have used the word 'God' and not 'Allah' on the sticker.

Judge Dhingra does not quote any authority in support of his presumptions made in his Order on sentence. I quote from his Order dated December 18, 2001 by which he sentenced three Indian citizens to death on several counts:

> The accused persons Mohd Afzal, Shaukat Husain Guru and SAR Geelani convicted in this case were inspired by Osma Bin Laden and Masood Azhar, an ultra fundamentalist leader of Jaish-e-Mohd (JeM), a terrorist organization based in Pakistan. The act of accused persons hatching up conspiracy for attacking the Parliament House with intention to kill Prime Minister, Home Minister and making hostage entire Legislature cannot be looked upon in isolation. Masood Azhar, JeM leader was released from Indian imprisonment in December 1999 in exchange for hijacked Indian Airlines hostages in Afghanistan. In 1994 HUA kidnapped US and British nationals in N Delhi and the July 1995 HUA/Al Faran kidnapped Westerners in Kashmir. Azhar organized large rallies and recruitment drives across Pakistan throughout 2000. In July a JeM rocket-grenade attack failed to injure the Chief

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Minister at his office in Srinagar, J&K but wounded four other persons. In December JeM militants launched a grenade attack at a bus stop in Kupwara injuring 24 persons and at a market place in Chadoura injuring 16 perosn. JeM militants also planted 2 bombs that killed 21 persons in Qamarwari and Srinagar.

Presumptions Made by the Learned Judge

I need not spell out the list of presumptions made by the learned Judge. However, I would like to bring to your attention the fact that the Prosecution did not lead any evidence in the court to show that SAR Geelani was inspired by Osama bin Laden. They produced 80 witnesses and not a single witness even alleged that he was so inspired. However, the investigating agencies did try to make this allegation by planting stories in the newspapers in the days after he was arrested. The stories were supposed to be based on his confessions to the police. But a judge is not permitted to take judicial notice of newspaper reports. Even a confession to the police is not admissible evidence under the ordinary criminal law. In any case court records show that Geelani never made a confession.

The relevant fact that did not come on record was that when the police arrested Geelani he was carrying the only copy of his handwritten thesis in Arabic. The subject of the thesis was a comparison between the Egyptian and Indian biographies of the Prophet. He was going to take it to Jama Masjid to get it typed and was hoping to submit it. There is no record of this in the seizure list.

Further, the Prosecution did not lead any evidence to prove that Geelani had any specialized knowledge of the topography of the Parliament. Incidentally, no evidence was led on the educational qualifications (or lack of them) of the five deceased terrorists. Thus in law it cannot be presumed that a letter found on one of them was written by the terrorist or that the others did not know English. Criminal law does not allow the judge to presume that the deceased terrorists were or were not educated. And it certainly does not permit the Judge to sentence a person to death because he is educated.

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The strangest part of the case was that absolutely no evidence was led by the Prosecution about the involvement of any terrorist organization. All the accused were acquitted of belonging to any terrorist organization or gang. That acquittal was upheld in the appeals by the High Court and the Supreme Court.

The learned Judge seemed totally unaware of the difficulties jurists, lawyers and judges have in defining "terrorism" and that under international law there is no legally acceptable definition of the term. I wonder what he would say to Judge R Baxter, US Supreme Court Judge, who said, "We have cause to regret that a legal concept of terrorism was ever inflicted upon us. The term is imprecise, it is ambiguous and above all, it serves no operative purpose."

The Judge Dhingra seems to imply that the moment a citizen is accused of a terrorist act he is not entitled to the safeguards under Criminal Procedure or protection of human rights guaranteed under the Indian Constitution. Thus, he defeats the concept of fair trial by implicitly denying the right of the accused to be presumed innocent till proven guilty. Furthermore, Judge Dhingra also presumed that the police acquired a right to violate Procedures and even the law in such cases.

The remarkable thing about this trial is that it was Geelani and his lawyers who persisted in asking for all the evidence against him to be brought on record. For instance, the police claimed to have intercepted all the calls from the night of December 13 and December 14, 2001. It was Geelani who asked that the contents of all those calls be placed on record but the Prosecution placed only one call.

I am sure at this stage you will ask me what was the "evidence" produced by the 80 Prosecution Witnesses against Geelani.

Assessing Evidence

At the Sessions Court trial the Prosecution relied on the following pieces of evidence:

1. Acquaintance of accused Geelani with his co-accused, Mohammad Afzal and Shaukat Hussain.

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2. An intercepted conversation between Geelani and his younger brother, Shah Faisel, on December 14, 2001 just before he was arrested.

I shall deal with each one so that you may have all the facts before you:

Acquaintance with Co-accused

Geelani never denied his acquaintance with the co-accused. He told the court in his statement under section 313 that he knew Shaukat Hussain from the time he had joined Delhi University. In 1990, when he had just come to Delhi for his post-graduation. Shaukat had introduced him to his first cousin, Afzal and his wife Navjot.

The Public Prosecutor made much of the allegation that Geelani had converted Navjot but no evidence was produced; and this 'charge' was never put to Geelani during his 313 statement. Yes it is true that during his 313 statement Geelani described his relationship with Shaukat as an "acquaintance" and the Supreme Court considered this a lie. But Professor Baxi, Geelani had never denied his relationship and it was only on advice by his lawyers that he had said "acquaintance". You know very well that there is no effective protection for a client against wrong advice from his lawyer.

The Prosecution put on record the list of incoming and outgoing calls from Geelani's mobile phone. The records listed 521 calls between October 24, 2001 and December 14, 2001. There was not a single call either from or to any of the deceased terrorists. Further, Geelani did not receive any calls from nor did he phone anyone in either Pakistan or Dubai. Out of these calls 28 calls were between him and the co-accused, Mohammad Afzal and Shaukat Hussain. Of these 28 calls there are 11 calls during the period of conspiracy. If we analyze these calls we find some of them lasted barely a few seconds. Geelani admitted all the calls.

The Prosecution did not have the record of the contents of any of these calls except the last call. However, Geelani offered to explain the contents and context of each of the 27 calls but he

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was denied an opportunity to give an explanation for the calls at the time of his statement under section 313 of the Criminal Procedure Code. That is the only time an accused is put in the witness box and given an opportunity to explain the facts. But the learned Judge did not ask Geelani what the contents of the calls were. He merely asked him whether he admitted that they were his call records. And Geelani admitted them.

But once again the learned Judge made his presumptions about the contents of the calls. For instance, there was a call on the night before the attack on Parliament from Shaukat to Geelani. It was Shab-e-Qadar night. It is a night when Muslims ask each other to remember them in their prayers. But the Learned Judge was neither aware of the traditions and customs of Muslims nor did he seem to be interested in getting to the truth. He made his own presumptions about that call:

> Gilani was very much alive to the preparations going on for attack on parliament by terrorists and so he made this call on the night intervening 12th and 13th December, 01. This call might have been either before the meeting had concluded or during continuation of meeting if he had not participated in the meetings to know the final result of the meeting as to whether the next date is the target date or not or after the meeting for seeking clarification. (Para 230)

This is pure, un-judicial conjecture on the part of the learned Judge. There was no evidence at all to show that Geelani ever met the five men who attacked the Parliament. In fact, the phone records clearly show the location from where the call is made and it showed that Geelani was in his own home.

Incidentally, even the charge sheet does not allege that Geelani ever met the deceased terrorists.

In fact, Geelani filed an application at the stage of appeal asking for an opportunity to explain the contents of the calls. I quote from his application:

> That during the course of arguments at the hearing of the above Appeal and the connected reference it has been respectfully pointed out how the examination of the appellant under section 313 of the CrPC is totally bad in law. The circumstances, which

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> ought to have been put to the appellant and an opportunity for explanation invited, have not been put. Some of the questions are un-intelligible or in any event were so complex that they cannot be understood by the accused under trial and still others amount to impermissible cross examination. The accused has been gravely prejudiced and misled in his defence.

Geelani was prepared to stand in the witness box and risk cross-examination in order to explain the contents of the calls but he was acquitted, so the High Court did not pass any order on the application.

The learned Sessions Judge did not take into account the fact that Geelani was the only one of the accused who had a regular phone connection with a permanent address and his phone bills were paid through his account in the State Bank of India. The mobile phones used by the co-accused had no regular connection and all used cash cards. Therefore, the address of the user could not be traced.

In addition to the evidence of the call records there was evidence given by the landlords to state that Geelani had visited Shaukat two or three times in two years. Geelani, as I have already told you, never denied knowing his fellow Kashmiris and the circumstances were entirely exculpatory.

The Intercepted Conversation

On December 14, 2001 Geelani got up with one thought in his mind: he had to buy a hearing aid for his mother-in-law and send it to Kashmir with his brother-in-law who was leaving for Kashmir that afternoon. He went by bus to the old city, purchased the hearing aid and came back to his home only to find that his brother-in-law had already left for the bus station at Tis Hazari, the stop from where buses leave for Kashmir. He told his wife that he would be back for Iftar; it was four days before Eid. That day was a Friday and Geelani decided to go for Friday namaz to the mosque at the Mall Road before going to the bus station.

Geelani took an auto to the main road and then got on to the bus for Mall Road. It was then that he received a call from Shah Faisel, his 18-year-old younger brother from Baramullah, asking

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Geelani to send him the syllabus and prospectus with the relatives going to Kashmir. Geelani told his younger brother that he could not do so immediately and he would do so after Eid. He told him not to call at the time of the day when it was expensive and said he would call later. The brother asked if all was OK and Geelani laughed and said yes. They wished each other and the call ended. It was a call that lasted two minutes and 16 seconds.

This conversation was intercepted by the Special Cell of the Delhi Police. PW66, Inspector Mohan Chand Sharma, told the Sessions Court how the call was intercepted:

> SI Harinder Singh was put on the duty of interception of telephone and he was given direction that the moment an call is observed on these phone numbers, he will immediately inform me. On 14.12.2001, a call being made was observed on 9810081228 during the day in Kashmiri language. SI Harinder Singh told me that the conversation was going on in Kashmiri language. I gave him directions that he should get it translated in Hindi and tell me the gist of conversation.

The details of the interception were elicited during cross-examination and PW66 had interesting admissions to make:

> The interception of telephones was started around 5 p.m. on 13,12,2001. I do not know how many calls were made or received from the telephone of Mr Jilani after 5 p.m. on 13.12.2001. S.I. Harinder had been informing me on receipt of each call and had been informing me of the gist. Three or four calls were received in Kashmiri language. I was not informed the gist of calls in Kashmiri. I was only told that the call was made in Kashmiri language. Neither I nor Harinder were knowing Kashmiri language. Outside help was being sought in respect of Kashmiri language. For the first time I was told at about 2 p.m. on 14.12.2001 about the relevant calls, which was in Kashmiri language. I had heard that call. I do not remember the duration of that call. I had only heard the relevant call on 14.12.2001 and had not heard the other Kashmiri calls. I was provided the translation of Kashmir call. I did not cross check the translation provided to me from some one else except the person employed by us for translation. I do not know if there are large number of Kashmiri officers in Delhi Police and some of them are holding

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> senior position. No transcript of that telephone call received in Kashmiri was prepared. Only translation was made.

Prof Baxi, I want you to note the fact that the Prosecution did not at any time produce a transcript of the conversation between Geelani and his brother, Shah Faisel, although it was the evidence they were relying on to convict him. Judge Dhingra did not ask for a transcript even though he used the evidence to sentence Geelani to death.

You may well ask me about the translation. Perhaps it was done so well that the court did not feel the need to have a transcript. I will let the PW71 speak for himself. He was the expert Harinder Singh called to translate the call.

I quote from the court records the evidence of PW71:

> Shri Rashid son of Shri Mohd Ramzan, aged 34 years, transport, r/o (the witness wants to keep his address secret and he is allowed to do so) on SA:
>
> "I was called at about 1.30 at Special Cell on 14.12.2001. I was called to translate the Kashmiri language conversation on the cassette to Hindi language. I heard the cassette and I told Hindi translation of the conversation to SI Harinder.
>
> "xxxxxn:- by Ms Seema Gulati, advocate for accused S A R Jalani:-
>
> "I am 5th or 6th standard pass. I cannot write Hindi. I can, however, speak Hindi and read Hindi newspaper. One of my friends had told me that I had to go to Special Cell. I had translated three conversations. I heard the taped conversations first myself for 2-4 times and then at the time of translating, I used to hear small part, and translate it and then used to hear further and then used to further translate. Whatever I used to tell Harinder, after translation, the same used to be written by S.I. Harinder. All the calls were on one cassette. There were other calls in Hindi and English also on the cassette. No body had written the conversation of calls in Kashmiri language. There were not so much interference that one cannot hear the call. A person knowing the Kashmiri could easily understand the conversation. The conversation was of one or two minutes. I had translated the entire conversation as it is on the part of the caller and the receiver. There were no English words like internets, prospectus, syllabus, etc used in the conversation. In the initially, the caller

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> was asking certain things, but his voice was not clear and in the end, he asked "Yeh dilli meh kaya kiya hai" and other conversation. It is wrong to say that the caller had not spoken the words "Yeh dilli meh kaya kiya hai" and thereafter. The Kashmiri translation of words "yeh jaroori hota hai" is "eichhe Jarrori" (It is essential.) It is wrong to say that the above words have not been stated in the conversation."

It is important to point out that the interception itself had been done in violation of the law and procedure. Judge Dhingra made light of the violation by the police in Para 195 he stated: "I consider that merely because prosecution had not followed the procedure laid down in tapping the conversation looking into the emergent requirement and interest of the Nation, the evidence collected by prosecution in the form of taped conversation cannot be thrown out."

Therefore we see the emergence of a new grundnorm, "interest of the nation", which is above the Constitution, the law and procedure.

Geelani and his lawyers did not seriously challenge the violation of the procedure because Geelani admitted the conversation except for the one line which he said had been interpolated into the conversation: "Yeh Zaroori Hai". Geelani asked the Judge to get a transcript of the intercepted conversation. The Judge refused. Geelani asked him to summon someone competent to translate the conversation in court. The Judge refused. Geelani asked that the conversations in other intercepted calls be put on record. The Judge refused. Finally, two expert witnesses deposed in the court, as Defence Witnesses. They put the transcript of the conversation in Kashmiri and gave a translation in Hindustani and English.

The first Defence Witness, DW1, was Sampat Prakash, a veteran trade union leader and a Kashmiri Pundit. He did not personally know either Geelani or any of us. We requested Balraj Puri at Jammu to recommend someone from Kashmir who would be willing to testify in the court. He recommended Sampat Prakash. Sampat Prakash agreed to testify but on one condition: that he would not tell any lies or half truths. We sent him the tape and he sent his transcript straight to Geelani's lawyer, Seema Gulati.

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The second Defence Witness, DW2, was Sanjay Kak, a documentary film maker and a son of an Army officer. He lived and worked mostly in Delhi but as a film maker he had expertise in sound technology. He too was a Kashmiri Pundit. He too did not know Geelani personally or his family. I met him in the course of my quest for a Kashmiri Pundit, who would testify as an expert witness on behalf of Geelani. He agreed to be a member of the All India Defence Committee and to appear as an expert witness but he too put the condition that he would neither tell any lies nor would he allow himself to be tutored.

It was after the testimony of the Defence Witnesses that Judge Dhingra finally played the tape of the conversation in the open court. Even if one does not know Kashmiri language one can clearly hear the words "syllabus and prospectus". It is also clear that the words "Ei Chhu Jaruri" are not there.

In addition to these two Defence Witnesses, Geelani's wife also appeared as a Defence Witness, DW5, to explain the context of why the younger brother had asked the older brother: "Yeh kya koroo?" She said that she wanted to go home for Eid but her husband refused to go since he had very few days of holiday. She had phoned his mother to complain and when his younger brother phoned he was referring to the quarrel between Geelani and his wife about going home for Eid. A younger brother would obviously not ask directly refer to the quarrel and Geelani had laughed it off.

Judge Dhingra's assessment of Geelani's wife's testimony is at Para 236 of the impugned judgement:

> There is one more important fact. Wife of accused Gilani has also appeared as DW 5. She in her deposition stated that accused had cancelled his programme of going to J&K on the occasion of Eid on the ground that there was only one holiday before the holiday of Eid. Eid was falling on 17.12.01. Sunday was of 16.12.01 and 15.12.01 was Saturday which is non working day for Delhi University. It seems that the programme of going for Eid was cancelled by accused Gilani not because of paucity of holidays but because he was hopeful that the five terrorists would succeed in capturing Parliament and he had envisaged a role for himself thereafter.

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Judge Dhingra's presumptions far exceed those allowed under section 114 of the Indian Evidence Act. Judge Dhingra dismissed the testimony of the two Defence Witnesses as "interested witnesses" and upheld the prosecution witness as a modern day Tulsidas, a great poet, who did not have formal education. I may point out that even the Special Cell had not thought of leading evidence to prove that PW71 Rashid, a fruit vendor of Delhi's Azadpur market, to be a Tulsidas in the making.

Judge Dhingra's assessment of the intercepted conversation, as evidence against Geelani, makes a mockery of the Rule of Law:

> 202. Prosecution has relied upon the last part of the conversation, which starts with the caller asking receiver (Gilani) – yeh kya koroo. This query cannot relate to quarrel between husband and wife, as already explained above. This query only relates to the incident in Delhi. DW1 Sampat Prakash, who has appeared on behalf of accused SAR Gilani has stated that in Kashmiri language 'yeh kaya koroo' means 'what has happened' and this query is made in general whenever anything happens anywhere. Same is the testimony of DW2 Sanjay Kak but it is not true. This court had no knowledge of Kashmiri language and had to take some lessons in Kashmiri language. It transpires that 'yeh kya koroo' in Kashmiri is also used for what have you had done. Both witnesses are interested witnesses. Dr Sampat Prakash is a Union Leader. He has stated that he was a Kashmiri pundit and known to one Balraj Puri, a Convenor of PUCL and Balraj Puri told him that All India Defence Committee for fair trial of SAR Gilani was constituted and Rajni Kothari was President of this committee. He gave him a copy of letter mark A and gave him a tape and told him to hear the cassette and transcribe into Kashmiri, then into Englih and then into Hindustani. He transcribed it after hearing the conversation and his transcription was Ex DW1/A.
>
> 203. DW2 is Sanjay Kak who is a member of the this All India committee as per the documents filed (in) court. The committee has been writing articles and giving interviews in the newspapers proclaiming innocence of accused. Witnesses who are members of committee or related with the committee, who had already decided about the innocence of accused persons, cannot, but be interested witnesses. Both of these witnesses tried to give general meaning of the conversation. They also did

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not deliberately write the answer given by accused to the query. A careful hearing of the tape reveals that accused had answered his brother "Ei Chhu Jarori Aasaan manj, manj" meaning that it is necessary in between. The subsequent advice given by his brother also means he should keep quiet and should relax or take it easy. The question-answer and the advice given by half brother to Gilani prove that question was not about quarrel between husband and wife but was about attack in Parliament.

204. Defence has criticized prosecution for calling PW71 who was only 5th/6th standard pass for translating Kashmiri conversations to Hindi. Language is not monopoly of the elite class. A child starts learning mother tongue while sucking milk of her mother. A person educated up to 5th or 6th standard may be knowing his mother tongue much better than a graduate or post-graduate who after acquiring knowledge of English starts forgetting his mother tongue and can speak only in Hinglish, Chinglish or Kashinglish. Tulsidas, Kabir and several other contemporary personalities had no or little formal education but had command over language and produced great 'works'. Being a fruit seller is no sin. Today we do not understand the dignity of labour and look upon persons earning livelihood by labour as low class. If India is 10th among the most corrupt countries it is not because of these poor people but because of some other class of people. The witness could not understand English words in the conversation because of lack of knowledge of English language but he understood Kashmir and Hindi well and translated the conversation to Hindi properly.

Judge Dhingra does not try to explain how PW71 was able to so easily hear and translate from the cassette after hearing only two to four times when the expert of the Central Forensic Scientific Lab (CFSL), CBI at Lodhi Road testified in the court that:

> The auditory analysis of recording in cassette C-1 reveal that same as indiscernible due to high interfering background noise throughout recording, hence the same cannot be compared with the specimen voice sample recorded in cassette marked S2 on voice spectrography.

Finally, the police sent the tape to the CFSL at Chandigarh and the expert from that Lab who testified as PW68 stated that from the voice sample it appears that the voice on the tape was

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"probably" Geelani's. Once again, Geelani did not take any technical pleas and straightaway admitted that it was a conversation between him and his brother while he was travelling on a bus which accounted for the disturbance.

The Defence Witnesses testified that they had to hear the tape more than 10 to 12 times before they could transcribe the contents. The Defence Witnesses transcribed more than 40 lines of exchange in the conversation whereas the translation of the prosecution witness had only 29 including the interpolated line, because he could neither hear the conversation nor understand the English words in it.

The flaw in Judge Dhingra's reasoning is that if Geelani's brother was indeed asking about the Parliament attack then he must have known of Geelani's complicity and therefore he too would be guilty. However, he was never cited as a witness by the Prosecution. In fact, he appeared as a defence witness. Further, the police did not even take a statement under section 161 of the CrPC from him.

But Prof Baxi, I much rather you read the full text of the conversation that was intercepted by the Special Cell and decide for yourself whether it can remotely link Geelani with the conspiracy to attack Parliament. I am reproducing the transcript and translations as produced by Sampat Prakash and placed before the Sessions Court: (see pp 97-99.)

It is this background that prompted Mr Ram Jethmalani, senior counsel, to begin his defence of Geelani at the stage of appeal before the Delhi High Court by telling the Court: "This is a case of no evidence. The law of evidence has been treated as non-existent. The provisions of the Code of Criminal Procedure and Evidence Act have been flagrantly violated."

He told the High Court that: "A court of reasonable competence and freedom from all bias – or suspicion of bias – is the requirement of Article 21 of the Indian Constitution. The howlers including callous and gross carelessness, the irregularities, and the illegalities at every stage and exhibition of prejudice and hostility against the accused at every step place the trial court and its conduct of the trial far below the standards required by Article 21. The whole trial is unconstitutional, illegal and void. Nothing of it can survive."

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Translation of the cassette recorded conversation in Kashmiri. Receiver from Delhi and caller from Kashmir is here by produced in Kashmiri conversation and translated in English language and Hindustani language by me.

	Kashmiri Conversation	English Translation	Hindustani Language
1. Receiver	Hello	Hello	Hello
2. Caller	Hello, Assalammalaikum Jenab	Hello, Assalammalaikum Sir	Hello, Assalammalaikum Jenab
3. Receiver	Valaikum Salaam	Valaikum Salaam	Valaikum Salaam
4. Caller	Vaaray?	Are you well?	Kya aap theek hain?
5. Receiver	Theek paacth, khosh, khosh!	Very well, quite happy!	Theek tarah se hoon? Khoush hoon
6. Caller	----------	----------	----------
7. Caller	Jaan paacth	Quite fine .	Bahut ache
8. Receiver	Na apuz kyazi vanay	No, why should I tell lies	Nahin, mein jooth kuon bolun
9. Caller	Che kati chukh? Gare pathac?	Where are you? Calling from home?	Tum kahan ho? Ghar se bole rahe ho?
10. Receiver	Na, Na. Ba chhus na gare pacthac.	No, No. I am not speaking from home.	Nahin, Nahin. Mein ghar se nahin bole raha hoon.
11. Caller	Kya?	What?	Kya?
12. Receiver	----------	----------	----------
13. Receiver	Ba Chhus gaadi manz.	I am in the bus.	Mein gaadi mein hoon.
14. Caller	Bassi manz?	In the bus?	Kya bus mein?
15. Receiver	Tim chhe neran waale. Ba chhus garah pakaan. Tse van che kyah gachhi?	They are about to leave. I am heading towards home. What do you want?	Woh nikalne waale hein. Mein ghar ja raha hoon. Tumhein kya chahiye?
16. Caller	Syllabus te prospectus	Syllabus & prospectus.	Syllabus aur prospectus.

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	Kashmiri Conversation	English Translation	Hindustani Translation
17. Receiver	Myani khayala che trav vunkes phone. Vunkes nare na kaaem. Timan chhu yyuni narun. Khan Saa'bas	I deem it advisable for you to drop the phone at this moment. Your job can't be done this time. They have to leave just now. Khan Sahib	Tumhara isi waqt mere khyal mein, phone rakhna theek rahega. Tumhara kaam is waqt nahin ho sakta. Unko abhi jaana hai. Khan Sahib.
18. Caller	Kaman?	Whom?	Kin ko?
19.	———————	———————	———————
20. Receiver	Khan Saa'baas hassa. Ba karay cheer phone. Az ya pagah. Ya doyi teryi dohai. Ya Eed peth. Yunkes Khasan ponsa ziyada.	It is Khan sahib. I will ring you up late at night. Today or tomorrow or on the Eed. Festival. It will cost higher at this time.	Khan sahib hain. Mein der se phone karunga. Aaj ya kal. Ya do ya teen din ke baad. Ya Eed. Per. Is samay paisa zyada lagega.
21. Caller	Accha, Accha, Janeb, Janeb.	Yes, Yes, Sir, Sir.	Haan, Haan, Janab, Janab.
22. Caller	Bae Soruy Theekh?	Rest all well?	Bilkul theek?
23. Receiver	Janeb	Sir	Janab
24. Caller	Ye kyah korva?	What has happened?	Yeh kya hua?
25. Receiver	Kya? Dilli-Ha?	What, in Delhi?	Kya Dilli mein?
26. Caller	Dilli, Kya korva?	What has happened in Delhi?	Dilli mein kya hua?
27. Receiver	Ha! Ha! Ha! (Asaan)	Ha! Ha! Ha! (laughing)	Ha! Ha! Ha! (hansna)
28. Caller	Vuni bihizyava sokha saan.	Relax now.	Ab sakun se rahna.
29. Receiver	Ha! Ha! Ha! (Asaan) Accha che katev chukch? Srinagar ha.	Ha! Ha! Ha! (laughing) O.K. where are you? In Srinagar?	Ha! Ha! Ha! (hansna) Accha tum kahan ho. Tum Srinagar mein ho?
30. Caller	———————	———————	———————
31. Receiver	Che chukha Srinagar?	Are you in Srinagar?	Tum Srinagar mein ho?

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Translation of the cassette recorded conversation in Kashmiri. Receiver from Delhi and caller from Kashmir is here by produced in Kashmiri conversation and translated in English language and Hindustani language by me.

	Kashmiri Conversation	English Translation	Hindustani Translation
32. Caller	Na, mein kor tate chutee.	No, I am no longer there.	Ab mein wahan nehin hoon.
33. Receiver	Che chukh vanay varmullay?	Are you now at Baramulla?	Kya tum abhi Baramulla mein ho?
34. Caller	Aa.	Yes.	Haan.
35. Receiver	Accha.	O.K.	Accha.
36. Caller	Tate kar mein Chutee.	I have left the place.	Mein ne vahan chod diya hai.
37. Receiver	Accha.	O.K.	Accha.
38. Caller	Accha. Khuda Hafiz	O. K. God bless you.	Accha. Khuda Hafiz
39. Receiver	Khuda Hafiz.	God bless you.	Khuda Hafiz.
40. Caller	Accha tharva?	O.K. should I keep the phone?	Kya mein phone rakhun?
41. Receiver	Accha tharva.	O.K. keep the phone.	Haan phone rakh do.

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Professor Baxi, why have you been silent when such serious violations of Rule of Law were threatening to corrode the basic democratic structure of our judicial process? Are you going to tell me that there was no need to intervene since Geelani was acquitted by the Delhi High Court on October 29, 2003 and the acquittal was confirmed by the Supreme Court of India on August 4, 2005? But the point is, did the acquittal result in Geelani getting justice? What have been the long term consequences of the trial of the four accused in the Parliament attack case for the Indian judicial system? Our concern for an individual's civil liberties is premised on our commitment to the preservation of human rights jurisprudence. Geelani's acquittal has done nothing to save the principles and norms of human rights jurisprudence from being

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corroded by the so-called war against terrorism. And you, Prof Baxi, have remained a silent spectator.

Rule of Law and Media Trials

A few days before the Designated Judge gave his judgement in the Parliament attack case, the media gave its judgement on the four accused in the shape of a 40-minute telefilm by Zee TV aptly entitled *December 13*. It proudly announced that the film was not a film but *haqeeqat* (the truth) and claimed to be based on the charge sheet filed in the case. On December 12, 2002, *The Hindu* carried a report on the press conference called by Zee TV and addressed by actor Raza Murad and Laxmi Goel, director of Zee TV. A special screening of the film was organized for the Delhi Police Commissioner, R S Gupta. The report quotes DCP Ashok Chand, Special Cell, (who spearheaded the investigation into the attack on December 13) appreciating the film: "I think it's a well-made film. It was like reliving our investigation."

It is no wonder that Zee TV had a special show for the police because the film was based entirely on their version of the event. It was not even made on the basis of the charge sheet but on the false stories planted by the police immediately after Geelani was arrested. The film has a scene in which Geelani is introduced to the five persons who attacked the Parliament. This was an allegation that was not even made either in the chargesheet or by any of the 80 Prosecution Witnesses produced by the police during the trial. Geelani's phone records showed that there were no incoming or outgoing calls from his phone to or from the phones of any of the deceased terrorists.

The film begins with Raza Murad telling the audience in his sonorous voice that he thinks it is his patriotic duty to tell this story. Was this his patriotism or was it an Indian Muslim's feelings of insecurity that he had to prove his nationalist credentials only by condemning a Kashmiri Muslim? Remember that this film had the approval of the then Prime Minister A B Vajpayee and Home Minister L K Advani.

Defence lawyers moved the High Court and asked for a stay on further screening of the film and the High Court granted the

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stay. Zee TV went in appeal to the Supreme Court and in the meanwhile it showed images and interviews of families of the security forces who had died in the process of saving the Members of Parliament. The TV showed images of the MPs paying tributes to the martyrs who had laid down their lives; and then dramatically cut to show images of their families trying to cope with the pain and loss of their loved ones. Zee showed that the families were unable to honour the memory of the martyrs because they were too poor to put up a statue and the government had not bothered to keep its promise of contributing towards the cost of a simple memorial for a national hero or heroine.

The Supreme Court vacated the stay in the name of freedom of speech and expression. They held that judges do not get influenced by such media portrayals. However, if you look at the court records you will see that Zee's main defence was not freedom of speech and expression but the loss of revenue from advertisements. In a newspaper report Lakshmi Goel admitted that this "unique film in the annals of Indian history" had not been prompted by patriotism but by the race among TV channels.

The Supreme Court allowed the media to defame an innocent citizen without giving him an opportunity to defend himself. Is this not an example of what you called TRMFHR (Trade Related Market Friendly Human Rights) in your book *The Future of Human Rights*? The problem is, who is going to rescue human rights from the market?

The High Court of Delhi gave its judgement in Murder Reference No 1/2003 and in Crl Appeal No 19/2003 in October 2003. The Bench consisted of Justice Usha Mehra and Justice Pradeep Nandrajog. Justice Nandrajog wrote the judgement. The Delhi High Court judgement is a 392-page judgement. As you know the Judges acquitted two of the accused, S A R Geelani and Navjot Sandhu.

The Judgement expressed concern over the way the media was used by the police. This was a concern because the police of the Special Cell had arranged a press conference on December 20, 2001 at their police station in which a handcuffed Mohammad Afzal had been made to incriminate himself in front of the entire nation.

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The High Court took note of Mr Ram Jethmalani's arguements that a media trial is antithesis of the Rule of Law and results in miscarriage of justice. Pre-trial publicity prejudicially pervades and saturates the community and renders virtually impossible the possibility of a fair trial. However, the Judge held that "Judges do not get influenced by propaganda or adverse publicity. The cases are decided on the basis of evidence on record.... We may only add that judges are trained, skilled and have sufficient experience to shut their minds receiving hearsay evidence or being influenced by the media." But they did add a caveat in the next paragraph:

> We may, however, lodge a caveat on this aspect of the matter. It has indeed become a disturbing feature as is being noticed by us repeatedly that the accused persons, after their remand by the Magistrate, are brazenly paraded before the press and interviews are being allowed. Accused persons are exposed to public glare through T.V. and in case where Test Identification Parade or the accused person being identified by witnesses (as in the present case) arise, the case of the prosecution is vulnerable to be attacked on the ground of exposure of the accused persons to public glare, weakening the impact of the identification. Further, what is more fundamentally disturbing to our mind is the fact that police custody is given by the Court to the investigation authorities for the purpose of investigation. This custody is not to be mis-used by allowing the media to interview the accused persons. The practice of allowing the media to interview the accused persons when they are in police custody under the orders of the Court, has therefore, to be deprecated.

In this case, Mohammad Afzal was produced before the national media and forced to incriminate himself. However, he made it a point to tell the media that Geelani was not involved in the conspiracy. Two media persons who were present at the conference appeared as Defence Witnesses for Geelani, Manoj Pande of the *Times of India*, and Shams Tahir Khan of *Aaj Tak*. Shams told the trial court that when Afzal mentioned Geelani, the Investigating Officer, ACP Rajbir Singh, shouted at him and told him that he had been told not to mention Geelani. The police officer requested the media not to report or broadcast that part of Afzal's statement exonerating Geelani.

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Prof Baxi, several media persons told me that Shams Tahir Khan had to pay a heavy price for giving that testimony. And you would have noticed that the police continue to parade every person they arrest as a "terrorist" before the media. Obviously, there is complicity of the media in this war against terrorism.

Geelani was singled out by the investigating agencies who kept planting stories about him in the media between December 16 and December 23, 2001, claiming that the stories were all confessions made by Geelani. However, court records show that Geelani never made any confession.

Amnesty International in an open letter to the Law Minister Jana Krishnamurthi, on the eve of the trial on July 8, 2002 had expressed their concern "that media coverage of the arrests and concerning the person of Abdul Rehman Geelani during the pre-trial period has been extremely prejudicial to his case and that the Government of India has not taken any steps to halt this."

I would have thought you would have voiced your concern about the unethical practice of the media broadcasting and printing "confessions" by people under detention on suspicion. Most times these confessions are dictated by police officers after torturing their hapless victims who are in no position to defend themselves.

When Geelani was released he found he was a prisoner of the image constructed by the media. Nobody would rent him a house, no bank would give him a loan to buy a second hand car, no car dealer would sell him a car, and when he went to get a driving licence the instructor said he would not give a licence to a 'terrorist' — even the doctors to whom he went for treatment for injuries caused by the torture were afraid of treating him.

There is no effective remedy against such defamation by the media. Geelani could, of course, sue each newspaper individually. That would not only mean spending endless hours in court but also meeting expenses which he could hardly afford. He could not even move the Press Council of India because it was well beyond the limitation period. Geelani had no remedy. And the Press Council did not take note of High Court's observations about the negative role media had been playing at the behest of the police.

It is true the High Court expressed concern about how the police had used the media. But the remarks were in the nature of

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obiter dicta. The High Court did not pass any strictures against the police or lay down any guidelines for the media to stop the practice they had found "disturbing".

In fact, neither the High Court nor the Supreme Court passed any strictures against senior policemen of the Special Cell for telling lies on oath. The Investigating Officer, ACP Rajbir Singh (PW80) testified in the court that he had indeed organized the media conference with the approval of his superior officers. However, the DCP Ashok Chand, who appeared as PW60, stated that he was not aware that Afzal was produced before the media on December 20, 2001. Despite the fact that the High Court and the Supreme Court noted that the senior police officer had told lies on oath, neither court passed any strictures against him.

This brings me to how the Executive violated the Rule of Law.

III. RULE OF LAW AND THE EXECUTIVE

Professor Baxi, it was almost three decades ago, on September 16, 1979 that you and three other Law Professors wrote an Open Letter to the Chief Justice of India protesting against the Supreme Court's judgement in Tukaram vs State of Maharashtra (1979) 2 SCC 143 by which the court acquitted two policemen who had been convicted by the Sessions Court for raping a 16-year-old tribal girl called Mathura inside a police station. Taking inspiration from that letter, more than 200 teachers of Delhi University and Jawaharlal Nehru University wrote to the Chief Justice of India protesting against the violation of pre-trial safeguards and denial of basic rights to their colleague, S A R Geelani. Coincidentally, this letter too was written on September 16 (in 2002). The teachers demanded a fair trial for Geelani and listed 16 examples of how their colleague had been denied his rights under the criminal law and his right to protection guaranteed under our Constitution.

The letter ended with the following appeal to the Chief Justice of India:

> We, the undersigned, do not wish to interfere, in any way, with the judicial process but we are deeply concerned that the principles of natural justice and fair trial are apparently being

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ignored. We wish to raise our voice not only in defence of a well loved and respected teacher but also because the ideals and values on which our country's democracy is founded are being eroded by the politics of prejudice and hatred. It is this concern that compelled some of India's most prominent citizens known for their integrity and patriotism to recently form an All India Defence Committee for Sayed Abdul Rahman Geelani.

We, urge you, the guardian of our Constitution to protect the principles of life and liberty and thus uphold the honour of our deeply rooted democratic traditions and the future of Indian secularism.

The university teachers in their Open Letter to the Chief Justice had pointed out how prejudiced the trial court judge seemed. The letter was published in *Mainstream* and was placed in the public domain. And you remained a silent spectator along with the rest of the legal fraternity (and yes, I am aware that fraternity does not include women, but does it matter when most seem to have internalized the patriarchal assumptions of the profession?).

It was not only the Delhi University and Jawaharlal Nehru University teachers who expressed their solidarity with Geelani, but more than 300 teachers from colleges and universities in West Bengal wrote to the National Human Rights Commission and expressed their concern that Geelani was not given a fair trial.

But strangely, you were silent. I wonder why you never raised your voice against the injustice being done to a young colleague when you had felt so strongly about an unknown tribal girl. In that case two policemen were acquitted by the Supreme Court despite overwhelming evidence that they had raped a 16-year-old girl in the police station. In this case a young Delhi University lecturer was framed by policemen, denied his rights under the law and subjected to torture, but neither the Delhi High Court nor the Supreme Court passed any strictures against the policemen for trying to frame Geelani.

Prof Baxi, you were the former Vice-Chancellor of Delhi University. And yet you did not protest when the police and intelligence agencies put pressure on the University authorities to stop a poster exhibition on Geelani's trial. The exhibition was entitled 'Lies of Our Times'. The exhibition of nineteen posters

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was created by a team of designers, photographers and film makers as a gesture of solidarity with Geelani. We got written permission from the Head of the Sociology Department, to put up the exhibition on August 2, 2004. However, one day before that, the police phoned the University authorities to say that the ABVP and Shiv Sena had threatened to disrupt the exhibition, so it would be advisable to cancel it. And the University authorities succumbed to the pressure.

Under pressure from the police, the University and college authorities of the Department of Sociology, Miranda House, St Stephen's College, Tagore Hall, South Delhi Campus and Sarai at the Centre for the Studies in Developing Societies (CSDS) all cancelled the exhibition.

The Delhi University teachers did protest and I quote from their protest letter written to the Vice-Chancellor:

> We were told that the threat of a demonstration by some Shiv Sena and ABVP activists was the reason for this decision. We were also shown a circular dated 20/2/02 that cited "work not connected with our University" would require "prior approval from the Vice Chancellor". We wish to state the following:
>
> (1) it is shocking that issues relating to human rights and that too one which involves a lecturer of the University are being construed as work not connected with the University. Clearly a circular is meant for social/commercial activity conducted by persons outside the University. If this circular is to be used to curb the freedom of expression and the discussion of ideas within the University, then it is inimical to the very idea of a University.
>
> (2) It is even more disturbing that the University has taken this decision under the intimidation from the police/ABVP. Are we to expect banning of discussion and activities around issues that are not to the liking of a particular ideological dispensation? Will this not destroy the carefully nurtured democratic space of the University and pave the way for fascism? Are we to turn over our University to the police which in this case is actively interested in suppressing the true facts relating to SAR Geelani case?
>
> (3) We have also come to know that permission to hold a meeting in Tagore Hall on the 4th of August has been withdrawn. The meeting was to be addressed by Mr SAR Geelani who was acquitted of all charges by the High Court. Eminent historian and former professor of DU Sumit Sarkar was to chair the meeting.

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Prof Baxi, if you had raised your voice in protest you would have most certainly created democratic space or at least preserved it. After all, whenever the teachers did take a strong stand they were able to show the exhibition. Madhu Prasad, a senior teacher of philosophy, managed to get the support of Geelani's college Zakir Hussain College and they not only held the exhibition but even an open discussion between Geelani and the students, including members of the ABVP.

Nandita Narain defied the ban in her college and held the exhibition in her house which is within the St Stephen's campus. And the students persuaded the Principal to finally allow Geelani to speak to them. Sarai also had the exhibition after initially cancelling it. The students and teachers of Jawaharlal Nehru University refused to give in to police pressure and held the exhibition for three days.

However, the Teachers' Association of Jamia Millia University was too scared to allow the exhibition.

Prof Baxi, we gave a Press Statement, wrote to the Police Commissioner, Home Minister and to the National Human Rights Commission about the police intimidation and attempt to suppress freedom of expression on the University campuses. We did not get response from any of these authorities.

The point I am making is simple. Our experience showed that the state is becoming more and more authoritarian and uses the politics of fear to silence all dissenting voices. The police, intelligence agencies and the Special Cell have assumed far greater powers than when you protested against the police in the Mathura case. Why were you silent this time when an innocent citizen was very nearly hanged and even though he was acquitted, he had not got justice?

You have not even protested against the way torture has got institutionalised.

Torture and Investigation of Crime

Justice P Venkatarama Reddi and Justice P P Naolekar in their judgement dated August 4, 2005 [State vs Navjot Sandhu, (2005 11 SCC 600)] expressed their concern over the fact that

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confessions made to policemen were admissible under section 32 of the POTA. I quote from their judgement:

> But as we see section 32, a formidable doubt lingers in our minds despite the pronouncement in Kartar Singh case (supra). That pertains to the rationale and reason behind the drastic provision, making the confession to police officer admissible in evidence in a trial for POTA offences. Many questions do arise and we are unable to find satisfactory or even plausible answers to them. If a person volunteers to make a confession, why should he be not produced before the Judicial Magistrate at the earliest and have the confession recorded by a Magistrate? The Magistrate could be reached within the same time which the empowered police officer could be approached.

Justice Reddi goes on to make the following observations about the investigation procedures:

> It has been pointed out to us that even in advanced countries like UK and USA where individual liberty is given primacy, there is no legal taboo against the reception of confessional statement made to police in evidence.
>
> We do not think that it is apt to compare the position obtaining in those countries to that in India. The ground realities cannot be ignored. It is an undeniable fact that the police in our country still resort to crude methods of investigation, especially in mofussil and rural areas and they suffer many handicaps, such as lack of adequate personnel, training, equipment and professional independence. These features, by and large, are not so rampant in those advanced countries. Considered from the standpoint of scientific investigation, intensity of training and measure of objectivity, the standards and approaches of police personnel are much different in those countries. The evils which the framers of the Indian Evidence Act had in mind to exclude confessions to the police, are still prevalent though not in the same degree.
>
> After independence, no doubt, some positive steps have been taken to improve the working pattern, utility and image of the police force, but, much desires to be achieved in this direction. Complaints of violations of human rights by resorting to dubious methods of investigation, politicization of the police establishment

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> and victimization of the straightforward and honest officers are some of the criticisms that are being heard day in day out. Even many amongst the public endorse the use of violence by police against the criminals. In this scenario, we have serious doubts whether it would be safe to concede the power of recording confessions to the police officers to be used in evidence against the accused making the confession and the co-accused.

After these strong remarks one would have expected that the Supreme Court would have passed some strictures against the illegalities committed by the police in the course of their investigation into the Parliament attack. But it did not.

Acquittal without Justice

All the three courts noted that the Prosecution version of Geelani's arrest is not correct. In fact, at one point during the arguements the Special Public Prosecutor made an extraordinary statement which was quoted by a senior correspondent of *The Hindu* on May 2, 2003: "If you go only by the clock, then the prosecution is not telling the truth."

The Delhi High Court held that "the prosecution stands discredited qua the time of arrest of accused S A R Gilani."

Geelani had told the court during his statement under section 313 of the Criminal Procedure Code that he had been arrested on December 14, 2001 while travelling in a bus going to the mosque for Friday prayers. His wife who testified as a Defence Witness told the court how she and her two small children had been arrested on the same day and had seen Geelani at the Special Cell. There was no cross-examination on that part of her statement. Despite this, the Supreme Court made the following remarks on the arrest of Geelani:

> The disclosure memo has also been assailed (Ext. PW 66/13) on the ground that the arrest of Geelani was manipulated and therefore no credence shall be given to the police records. Whereas according to Gilani, the time of arrest was 1.30 p.m. on 14th December, 2001 while he was going in a bus, according to the I.O., the arrest was effected at about 10 a.m. on 15th

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> December, when he was about to enter his house. Though the time of arrest at 10 a.m. does not appear to be correct in view of the information which was already passed on to Srinagar regarding the truck of Shuakat there are certain doubtful features in the version of Gilani too that the arrest was effected on the afternoon of 14th December, 2001. It is not necessary to delve into this question further for the purpose of disposal of this appeal.

University and College teachers have criticized the Supreme Court judgement's remarks on Geelani's arrest. I quote their Press Statement released on the occasion of Teachers' Day shortly after their colleague was acquitted:

> The newspaper reports of December 15th carry stories that Mr Geelani's family are missing on 14th ; the AIRTEL records show that the last call Mr Geelani received was in the afternoon of December 14th; and Mr Geelani's wife testified in court that Mr Geelani did not return home on December 14th and she along with her two small children were all arrested on December 14th and they saw Mr Geelani at the police station and they saw that he had been tortured. All this is a part of the record. And this evidence has not been challenged by the prosecution.
>
> Why has the Supreme Court chosen not to believe Mr Geelani? Why has the Court not given any reasons for not believing Mr Geelani? This shows a certain lack of transparency and can only make it more difficult for Mr Geelani to file for damages against the policemen who tortured him and tried to frame him.

The Press Statement has been signed by Madhu Prasad, a senior teacher at Zakir Hussain College, Delhi University, and Prof Rupamanjuri Ghosh, the then President of the Jawaharlal Nehru University Teachers Association (JNUTA), amongst others.

Prof Baxi, you had raised your voice on the question of custodial rape of a minor girl in 1979 but what about the illegal arrest and detention of two small children, Aatif, a boy aged five and Nusrat, a girl aged eight. These two children were suddenly taken out of their home by unknown men and kept inside a police station and made to hear screams of men being tortured and then taken to see their father whose swollen face and marks on his wrists told

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its own tale even though he tried to smile at them through his pain.

The policemen at the Special Cell kept Geelani's family, his wife, their two children, his younger brother, Bismillah, their two cousins in detention from December 14, 2001 to December 16, 2001. There is no record of the detention or of the memories that the children stored in their minds. But those two days cut short their childhood and scarred them for life, especially since they did not get justice and the guilty policemen roam freely without being punished.

Prof Baxi, do you want me to describe the details of torture? Should I describe how Geelani was taken to a big bungalow with a wide verandah and large pillars and was hung upside down, naked and beaten up? I will leave out the details. The fact is that even the Supreme Court accepts that torture is part of the standard procedure used by the police to illicit confessions. It would seem that we have a criminal justice system based on the medieval practices. Why has India not produced a Cesare Beccaria even though torture is so deeply institutionalized into our criminal justice system? Why are we, as a nation, not outraged by torture?

The existence of torture raises questions of truth and knowledge in the legal context. These are philosophical questions about the way the criminal justice system actually regulates the process of proof. Is that not your precise concern in the Mathura case? Then, why not for a Delhi University lecturer?

Does it not worry you that people are arrested without the police following procedures laid down by the law? That citizens (and non-citizens) are arrested in violation of guidelines laid down by the Supreme Court in the D K Basu's case? And that even when the illegality of the arrest and detentions is brought to the notice of the Courts no action is taken against the policemen?

Prof Baxi, it is true Geelani was acquitted but has he been given justice? Can he get justice or are we to be grateful that an innocent man has been acquitted?

The Supreme Court ended its 271-page judgement in the Parliament attack case with making certain observations on Geelani's behaviour. Those observations amounted to passing a

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"civil death sentence on him" according to a former Solicitor-General of India.

The Supreme Court has made the following observation: "However, we would like to advert to one disturbing feature, Gilani rejoiced and laughed heartily when the Delhi event raised in the conversation."

The Supreme Court chose to disbelieve the testimonies of Geelani, his wife and his brother that he had laughed because the reference was to his quarrel between himself and his wife over going home. Two expert witnesses had stated under oath that the conversation could not be linked to the conspiracy to attack Parliament and the conversation was around prospectus and syllabus. That is the context of the conversation.

The Supreme Court chose to believe the Prosecution Witness, Rashid who admitted he did not know English and so did not know the context of the conversation. And the Prosecution failed to put a transcript of the conversation on record.

The fact is that just after the news of the attack on Parliament, a cousin sent a message telling Geelani the news and he immediately sent a SMS saying that whoever has attacked the Indian Parliament is no friend of the Kashmiri people. We did not know how to get that spontaneous message on record. Several lawyers in Patiala House told me that when the Parliament was attacked and it was said that there was a sixth man involved many lawyers sent the following message to each other: "The hope of the nation lies with the sixth person." Should these facts not be taken on record? But under the law of evidence there is no way of doing so.

Geelani lives with a civil death sentence, guarded by the Central Industrial Security Force. Even with this protection there are reasons to believe that his life is in danger. The investigating agencies have tried to torture two Kashmiris into making a false confession that they were involved in the attempt to assassinate Geelani. Both of them were sodomized in the police station and when they refused, they were booked under the Official Secrets Act; there was an attempt to murder Kashmiri prisoners in Tihar Jail and a complaint was sent to the NHRC but there was no response; the media continues to vilify Kashmiris as terrorists.

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Communal Prejudice and Hate

Professor Baxi, even if you did not speak out on any of the issues I have raised so far, I would forgive you. But what should have outraged your conscience was the fact that Geelani was sought to be framed only because he was an outspoken educated Kashmiri Muslim. And he was being framed in the most serious case in post-Independence India, under a Hindu-fascist rule. The police planted stories in newspapers saying that Jaish-e-Mohammad had given him the responsibility of spreading "intellectual terrorism" (*Rashtriya Sahara*, December 18, 2001) and that he used to lecture on terrorism in his free time (*Hindustan Times*, December 17, 2001) and many such defamatory stories.

Geelani himself told me the first time I met him in jail that he felt he was in a RSS cell when they were torturing him, and their verbal abuse and hate made him feel they were not really beating him personally but taking out their collective venom on the entire Muslim community.

And this was not only by the Special Cell but also inside the jail. The Tihar Jail authorities regularly discriminate against Muslim prisoners. For instance, they are denied the right to have a small place of worship. They even demolished a small platform used by the Muslim prisoners for namaz while allowing several temples inside the jail.

This bias, prejudice and blind hatred is born from ignorance and fear instilled by the media, the education system and has become even more pernicious with the war against terrorism. Prof Baxi, you always taught us how to be innovative. What kind of laws can deal with this virus which is gnawing at the innards of our democracy and has entered into police stations, jails, courts and Bar Associations?

I know that section 153-A makes it a crime to promote enmity between different groups on the ground of religion, race, place of birth, residence, language, etc. and doing acts prejudicial to the maintenance of harmony; and section 153-B makes it a crime to use words, either spoken or written, or by signs or visible representations, that cause feelings of enmity or hatred between

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any of the communities. Do you seriously think that Geelani can file cases against the police officers, judges, doctors and jail authorities, for their communal and hate-driven actions and verbal abuse? And can you name any lawyer who would sincerely pursue the cases he files?

Prof Baxi, you are a jurist with a formidable reputation. But have you ever raised any questions about the role of lawyers in establishing the truth and their ability to defend principles of justice? Philosophers and jurists have raised serious questions about the court's ability to achieve truth or justice and the possibilities of objective knowledge. What is the role of lawyers in this?

Lawyers

I know that historically Bar Associations have always been bastions of conservatism and even reaction. After all, law is meant to uphold the status quo and maintain the structure of society, not change it.

There were lawyers inside Justice Dhingra's Court in Patiala House who shouted "death to the lawyers who defended the terrorists" on the day Geelani and his two co-accused were sentenced to death.

But before the trial began Geelani's family had approached so many lawyers to represent him and many refused out of fear that the other lawyers would dub them anti-national.

I am not only talking about the difficulties of getting a good defence lawyer. I also want to raise a question on the role and responsibility of the Public Prosecutor.

I remember, the last time I met you was at a seminar on the role of the Public Prosecutor. You had argued for more autonomy for the office of the Public Prosecuter so that he (or she) could maintain the purity and impartiality in the field of administration of justice. His duty is not to represent the police but the public interest. Many legal luminaries pointed out at that seminar that the Public Prosecutor must remain impartial and not persecute the accused. But the Special Public Prosecutor in the Parliament attack case advanced arguments that did not give anyone confidence that the Public Prosecutor could maintain "purity or impartiality".

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The Special Public Prosecutor even advanced the arguement that confessions of an accused could be admissible against his co-accused. This was a provision which had been introduced in the TADA in violation of long-standing principles of criminal jurisprudence. It was against this provision that there were nation-wide protests and ultimately the Act was repealed. Now, he wanted to bring in that provision even though it was not included in the POTA just to hang Geelani. Fortunately, the Supreme Court rejected his submission.

Mr Jethmalani summed up the role of the Special Public Prosecutor in his opening submissions to the Supreme Court on March 15, 2005:

> I appear for the Respondent Geelani in criminal appeal no. 376-378. My client was convicted by the trial court. At the High Court it was argued that this was a case of no evidence as distinguished from bad evidence. And it goes to the credit of the High Court that it courageously came to the conclusion that there was no legal evidence of any kind against SAR Geelani. I propose to make good that submission and finding of the High Court.
>
> Your Lordships have heard my learned friend (the Special Public Prosecutor) with unusual patience and attention. The chief characteristic of his argument has been impassioned rhetoric, which is good if it is by defence counsel but not helpful if done by the counsel for the state. The reason is that rhetoric conceals big holes in the arguments and prevents the targets of the rhetoric (us) from concentrating on the main issues. I shall begin by pointing out some of the manifest and blaring fallacies of his arguments.
>
> The attack on the Indian Parliament could have doubtless have led to the taking of politicians and VIPs as they are called as hostages. World attention was drawn and world scrutiny as well. My friend is for once right that Parliament is the symbol of Indian democracy. The attack evoked hatred, anger and feelings of retaliation and feelings of revenge on the perpetrators to do to them what they wanted to do to our politicians. In our democracy politicians are important symbols of the democratic process whether they are loved or thought dispensable.
>
> A good part of my learned friend's arguments were concentrated for a good part of the time on admitted facts i.e.

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> on a description of the main incident, horrendous enough but an admitted fact. The arguments were designed to generate the very emotions, which cloud human judgement required in objective, balanced, sober search for the truth.

Prof Upendra Baxi, who will speak out about the wrongs that lawyers commit? We have watchdog bodies for media persons and doctors but who will make lawyers more accountable to the public?

Indeterminacy of Law

Prof Baxi, you know that law is not objective and neutral. It is political and represents the interests of the dominant classes or communities. You know that a Kashmiri Muslim man picked up by the police and framed in a case like the Parliament attack case has very little chance of proving his innocence even if there is not a shred of evidence against him. You know that even if the best lawyer in the country is representing him, his chances of acquittal are slim unless there is some political intervention. You know that such an intervention is crucial to save his life.

It is also unlikely that Mr Jethmalani would have taken up the case had it not been supported by a vigorous and sustained campaign outside the courts. Without Defence Committee there would have been no expert witnesses to testify for Geelani.

In addition to the hard work in the courts we ran a sustained campaign outside the courts for three years.

The point I am trying to make is that you know that we can never offer the same amount of time or service for other political prisoners.

No one knows how many political prisoners are rotting inside jails all over the country. Many political prisoners are even younger than Geelani, many cannot afford a lawyer, others can afford one but no one is willing to defend them. Political prisoners are more often than not treated by the trial court lawyers like criminals instead of as political persons and so often given wrong advice. In addition, they are regularly beaten and humiliated inside the jail, subjected to cruel, inhuman and degrading punishments. No visitors ever reach them in the high risk cells were they are kept in solitary

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confinement and their voices are never heard. How will they get justice? Does this not bother you, Prof Baxi?

I will be honest with you. I have seen great deal of injustice from close quarters and still managed to sleep at night. The reason was that my faith in the system had never been shaken to this extent. May be I was naïve. May be I did not understand the system. I had stars in my eyes every time I wore my white collar and black gown and stood up for some cause. The stars in my eyes have now faded out and I can see the reality in black and white. It happened on the night that someone tried to assassinate Geelani, my client, right outside my home on February 8, 2005.

You know that once the criminal justice system is subverted and corrupted to suit the needs of war against terrorism, it will not serve the ends of justice for anyone. I would like to remind you of what Maulana Azad said of the law and courts: "History bears witness that whenever the ruling powers took up arms against truth and injustice, the Courts rooms served as the most convenient and plausible weapons." The courts are being used to wreak vengeance and perpetuate injustice.

Last Resort Against Tyranny and Oppression

The Universal Declaration on Human Rights states that "if man is not to be compelled to have recourse, as a last resort, to rebellion against tyranny and oppression, that human rights should be protected by the rule of law."

The Supreme Court is obviously not the court of last resort. It is responsible for too many unjust and unfair judgements. And the justice it has dispensed has been often too little and too late. In the Parliament attack case, State (NCT of Delhi) versus Navjot Sandhu (2005 11 SCC 600), justice has not been done. And this time I am not thinking of Geelani but of Mohammad Afzal.

I am sure that you have read the reasoning of the court while awarding death penalty to Afzal.

Let me reproduce Paragraph 253:

> The gravity of the crime conceived by the conspirators with the potential of causing enormous casualties and dislocating

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> the functioning of the Government as well as disrupting the normal life of the people of India is something which cannot be described in words. The incident, which resulted in heavy casualties, had shaken the entire nation, and the collective conscience of society will only be satisfied if capital punishment is awarded to the offender. The challenge to the unity, integrity and sovereignty of India by these acts of terrorists and conspirators, can only be compensated by maximum punishment to the person who is proved to be the conspirator in this treacherous act. The appellant who is a surrendered militant and who is bent upon repeating the acts of treason against the nation, is a menace to the society and his life should become extinct. Accordingly we uphold the death sentence.

How can the highest court in our country give such extraneous reasoning for awarding a death penalty in violation of all principles of sentencing, and criminal jurisprudence?

Afzal's petition under Article 72 of the Indian Constitution is pending before the President of India. The President has already made public his stand that he is against death penalty, especially for the poor and marginalized. He has even met Afzal's family. He has taken these courageous public stands that have made him vulnerable to attacks by the Hindutva brigade. The attack is vicious, personal and communal. No political party has even protested against Bal Thackeray's remarks and the people of Mumbai have voted the Shiv Sena into power.

The fight for Afzal's life is no longer a fight for preservation of individual civil liberties or a fight against death penalty. It is a fight for the collective rights of Kashmiris, of Muslims. It is also a struggle to preserve political diversity in the midst of the oppressive homogenizing politics of the fascist forces. It is equally a struggle against state repression in the name of national integration or multiculturalism as it is called in the West.

I know your discomfort with identity politics, but these identities are thrust upon people. I am not taking refuge in post-modernism but you too must not take refuge in the comfort of liberal human rights discourse with its emphasis on individual civil liberties.

We need a theory of human rights which takes into account the collective rights of people. You will ask me to give you an

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alternative paradigm. But this time Prof Baxi, you take the responsibility of answering questions rather than posing them to students. You have raised too many questions, answered too few. You never tried to develop a jurisprudence of insurgency to counter the jurisprudence of orthodoxy. This is my last and final charge against you.

History will judge you. It may not absolve you.

I will wait for a response — not only to my letter, but to your intervention to save Mohammad Afzal Guru's life. I know you have signed the online petition against death sentence for Afzal but that is hardly enough to register your protest as India's foremost jurist against a judgement which goes against all principles and norms that any jurist must hold dear.

Yours anxiously,

Nandita Haksar

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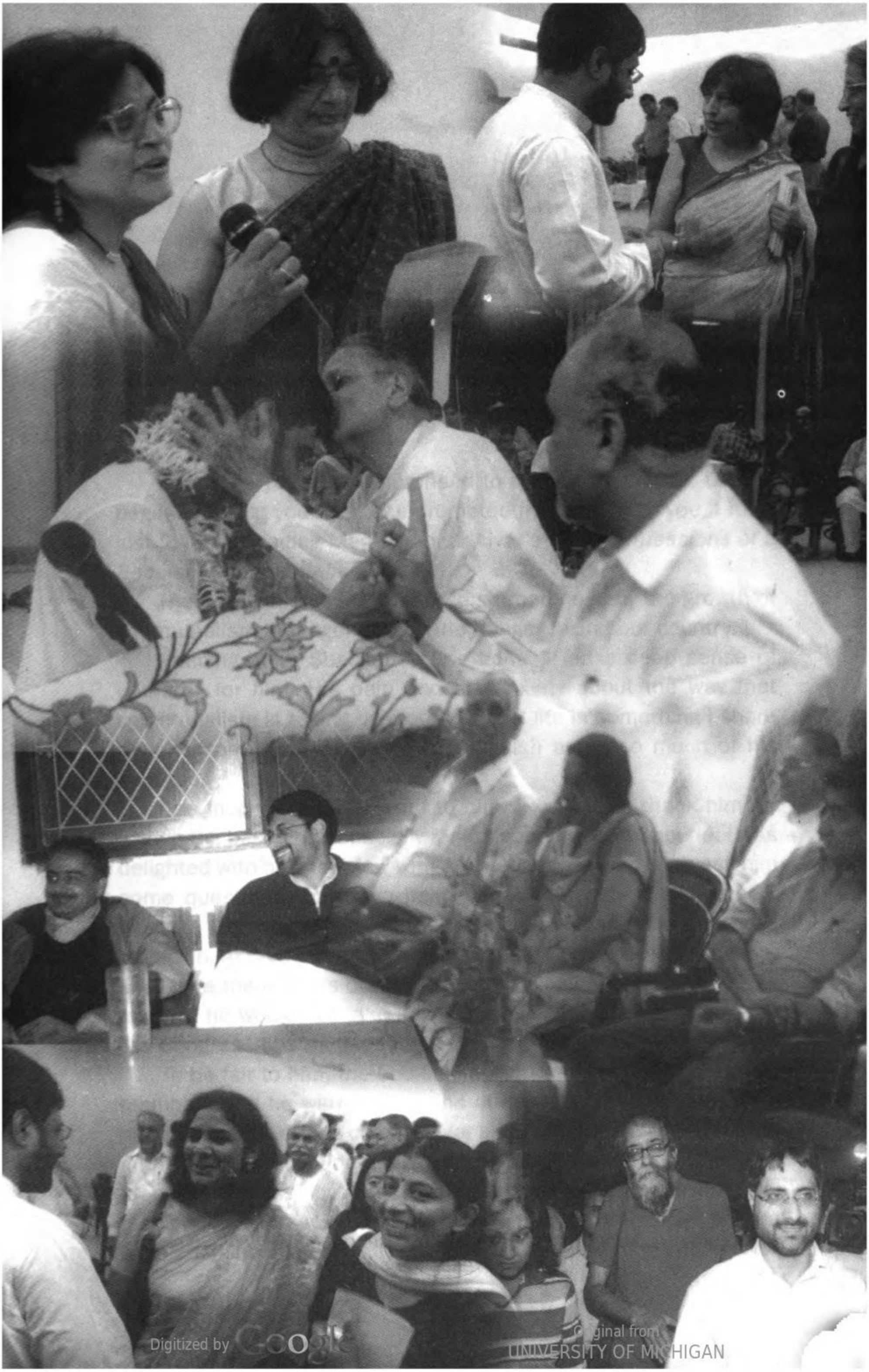

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Delhi University and JNU teachers and Geelani;
Sampat Prakash is also seen.

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Challenging Secular Fundamentalism

Letter to Prof Bipan Chandra, Historian

Dear Prof Bipan Chandra,

I am sure you will be surprised to receive this letter. Let me begin by telling you what has prompted me to write to you. I have just finished reading Mani Shankar Aiyar's book *Confessions of a Secular Fundamentalist*.

The book reflects how deeply disturbed he is by the growth of communalism and agonized by the danger facing our country.

Reading Mani Shankar Aiyar's book, I felt a deep sense of empathy for him. His pain and his anxiety about the way that communalism is taking over our national life is something I share deeply. I am sure you share his anguish and also much of his analysis.

I so much wanted to write to him. I wanted to thank him for writing the book and especially for lampooning Arun Shourie. I was delighted with his interview with Arun Shourie. I wanted to ask him some questions that have been agitating my mind. However, I hesitate to write to him. He is after all a Congressman, and a politician. At present he is a Minister in the Government. He cannot challenge the policies of his party or its allies openly. It seems to me that he would not take kindly to criticism just at a time when the Congress has managed to defeat the BJP.

To be fair to him, the book is implicitly addressed to his party members and he warns them and states that the "Congress did not convincingly offer a clear secular alternative. A huge gap opened in the public perception between Congress rhetoric and Congress practice, a gaping abyss of credibility that gave rise to the currently fashionable expression 'soft Hindutva'. Had the alternative of hard secularism been on offer, the outcome might have been different."

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He categorically states that "the real danger before the country is not a BJP electoral victory. The real danger lies in the rest of us seeking to thwart the rise in electoral support to the BJP by becoming pale imitations of the original." He goes on to advise his party workers that they should heed your advice. He says: "The Congress and other secular forces would, therefore do well to heed the warning given by Professor Bipan Chandra: 'Concessions do not lead to the recession of communalism; they lead to the popularization and spread of communal ideology; they make communalism more acceptable'."

I agree that communalism is not acceptable. The trouble I have with Mani Shankar Aiyer is that I doubt whether he can feel the pain, the anguish and the outrage I feel about the way secularism is interpreted by secular fundamentalists like him. His secularism is wedded to the idea of national integration. He celebrates the diversity of cultures in India but asserts we are one nation. Articulating the classical Nehruvian vision of India, he writes:

> Let me begin by stating the obvious. In every village of India, in every basti and every mohalla, there are people of different faiths, languages and cultures, who live together as neighbours. While we are a multi-religious, multilingual, multicultural society, we are emphatically not a multinational society. We are one nation, one people. Furthermore, secularism and our nationhood are inseparable. Secularism is the bedrock of our nationhood.

Mani Shankar Aiyar in a fit of righteous nationalist ire goes on to proclaim: "Dissidents who wish to break our unity — be they minority religious fundamentalists in Kashmir or Punjab, or ethnic chauvinists in the north-east, or linguistic fanatics in the south — are reaching out for support to the Western nations, the Western mindset. The search for support, and the extension of support to secessionists, comes in many guises – 'human rights' is one, 'self-determination' is another, 'democracy' is a third. We have so far been able to resist these incursions on our sovereignty and integrity because our record on human rights, self-determination and democracy is truly second to none. But if any of these were to change, Indian secessionists would find ready allies in the militarily

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powerful, economically dominant, politically overweening and intellectually narrow-minded West."

I agree with Mani Shankarji that human rights, self-determination and democracy are part of a discourse which has been used by Western states as tools of their foreign policy to undermine the political and economic sovereignty of countries euphemistically called the "developing world". I would add to his list and admit that women's rights, environmental concerns and gay and lesbian rights too have been used by Western countries in their imperialist arsenal to control, manipulate, subjugate and dominate our cultures and rob them of all meaning and content.

However, I cannot agree with Mani Shankar Aiyar when he says "our record on human rights, self-determination and democracy is truly second to none."

That is where I beg to differ. I do not think our human rights record is something to be proud of. I am not thinking of something as horrendous as the genocide in Gujarat. I have been witness to police brutality and cruelty on young idealistic men and women in the name of crushing Naxalism; I have seen villages destroyed and girls raped by Indian security forces in the name of quelling Naga insurgency; I have seen how poor people have been living inside jails in India for decades because their files are lost; I have seen Sikhs beaten to death on mere suspicion. I know about the devastating effects of communalization in the police force. I have not yet mentioned the state violence on Dalits or on women. When people have raised their voices against these state brutalities they have been called anti-national, not only by the Hindu right wing parties but also by Congress and left of centre parties.

I have been living in many different parts of our country, not like how bureaucrats or members of Indian security forces do as representatives of the Indian state. I have lived there in my capacity as a human rights activist. I have had the privilege of representing individuals and organizations which may be termed as Insurgent before the Supreme Court, High Courts and even before international human rights forums. I have never faced any conflict of interest between my work as a human rights lawyer and my duties as an Indian citizen or my commitment to fighting imperialism. And I have always opposed and tried to expose the role of foreign funding

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agencies and NGOs who are not accountable to the people they work with but serve the interests of Western imperialists.

Prof Bipan Chandra, I am only stating these facts, so you may better understand where I stand politically and why certain questions have arisen in my mind in the course of my work. The questions I want to raise with you are about the nature of the experiment with secularism and democracy in our country. I have come to the conclusion that if we are to find honest answers, we may have to reject some of our most cherished assumptions and also put the country above the party we belong to, whether it is the Congress party or the left of centre parties.

Mani Shankar Aiyar seems to think that secularism with a capital S is the glue that can keep the county united even if we have to sacrifice some basic democratic norms. But I would like to remind him that the original Constitution of India did not claim to be secular but it did claim to be democratic. I am sure you remember the word "secular" was added to the Preamble of our Constitution during the dark days of the Emergency when the basic foundation of Indian democracy was shaken. Mani Shankarji would be enraged to read these words. I know you would be too. But even if Mani Shankar Aiyer refuses to listen to me, you must in the best tradition of Jawaharlal Nehru University where you were once a teacher of history and I your student. I want to raise some basic questions and you must answer these as a teacher answers a student. That is why this letter is addressed to you.

However, before I pose my questions, I must try and explain the process by which these questions have arisen. I must put my questions in their political context as a good student of history must.

Making of a Secular India

I still remember the passion with which you taught us the history of Indian freedom movement and the rapt attention with which I listened. You transported us into the middle of the Indian National Movement. All the three words with Capitals. I am very glad I had the opportunity to join the history centre at a time when all of you were teaching. At that time I listened to you, Prof S Gopal, Romila Thapar, Harbans Mukhia and others with rapt attention.

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This was just after the time the national emergency declared by Prime Minister Indira Gandhi had been lifted.

The lectures on fascism by Madhavan Palat took on a new kind of meaning in the background of those dark days. Many friends were still in jail and some had just been released. A new democratic consciousness was emerging in the aftermath of the Emergency. This was the time that saw the emergence of human rights groups, feminist autonomous organizations and the environment movement. I was attracted to the feminist groups and human rights activists. The feminists took up campaigns against the rape of Mathura, a minor tribal girl of Maharashtra, by constables at a police station; mass rape by landlords of Santhal women (in what was then Bihar) in order to break the organization of landless labour; and the burning alive of women in the name of dowry. The human rights groups focused on the extreme forms of torture being used in jails in Calcutta where idealistic young people were being broken in body and mind in the name of curbing Naxalism.

Looking back, I realize that none of the issues that I learnt about through these movements were reflected in the classes in the University. But I had not yet learnt to question your interpretations and perspectives. It did, however, occur to me that we were not taught anything about women's contribution to history. I was reading that hidden history outside the classes and was beginning to understand why history books were silent on women's role and contribution to society. But I was not yet a feminist and I was just beginning to understand the meaning of peoples' history as distinct from the history written from the point of view of the ruling class.

That was almost thirty years ago.

I accepted your interpretations of Indian history without much questioning. There were two reasons for my acceptance. The first was that I had been brought up in a national, secular atmosphere at home. The second was because your history writing was a vast improvement upon the chauvinist writing of the earlier history text books taught in schools and colleges before you and your colleagues wrote the NCERT text books. That is why I felt so strongly when there was an attempt by Jan Sanghis to ban your books.

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I remember that there was an attempt by the Jan Sanghis to ban four history books on the basis of an anonymous letter.

There was a question in Parliament on the proposed ban of four text books on July 28, 1977. On the basis of that we launched a signature campaign against the withdrawal of the following books: *Medieval India* by Romila Thapar published by NCERT; *Modern India* by Bipan Chandra published by NCERT; *Freedom Struggle* by Amlesh Tripathi, Barun De and Bipan Chandra published by the National Book Trust; and *Communalism in the Writing of Indian History* by Romila Thapar, Harbans Mukhia and Bipan Chandra published by the Peoples' Publishing House.

I still have a photo copy of the Memorandum to the Education Minister and I see that it was signed by K N Raj, A Vaidyanathan, C P Chandrasekhar, Sanjaya Baru, etc. In addition to the signature campaign, we got students from four universities to come together and organize a three-day seminar in which we took on the Jan Sanghi historians including P N Oak, the man who argued that every single Muslim building was in fact Hindu, including the Taj Mahal.

I defended those text books because I thought they made Indian history so exciting. I do not know whether you know that Nurul Hasan Saheb had sent me the manuscript of your modern India book while I was still in school. It was that text which taught me to look at history as a process rather than a chronology of rulers. I was so excited by the discovery that I begged my Principal to allow me to invite Nurul Hasan Saheb to our school to give us lectures.

Thanks to that manuscript, I did extremely well in the history examination but after school I took up Sociology honours instead of history. It was much later that I fulfilled my dream of becoming a student in your centre; our centre.

I was an undergraduate student of Miranda House and you were teaching in Delhi University. That was the time the Jana Sangh and the Akhil Bharatiya Vidyarthi Parishad were so powerful. They would disrupt any lecture given by you or the other nationalist historians like Prof Romila Thapar or Prof Irfan Habib. I was among the few dozen students who would attend your lectures and resist the communal goondas. Perhaps that is why I was failed twice in

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my history subsidiary as were other students who did not subscribe to the "Golden Age of the Gupta Period" theory of history.

The fight against the ABVP was not easy and required courage. They would roam the University with knives and force the students to vote for them. And in those days there were no direct elections, so only a small group of students elected from each college voted for the office bearers of the Delhi University Students Union (DUSU). I remember rather ugly election meetings on the campus with people snatching the mike and shouting vicious accusations. I do not remember the issues or the exact subject matter but it was all between members of All India Students Federation (AISF), Students Federation of India (SFI) on the one hand and the ABVP on the other.

And then came our major victory. The defeat of the ABVP and the election of Amarjit Kaur, the bright and enthusiastic young woman who defeated the ABVP. She was the candidate from the All India Students Federation (AISF). I campaigned for her with my heart and soul and when she won, it seemed that we had the beginnings of a revolution.

It was also a time when I first read Marxism. It opened up a new world for me. I attended study circles, met new kinds of people and understood the magic of calling someone comrade. Remember, it was 1970, the beginning of the Naxalite movement. I was the one who wrote the first Naxalite slogans in the Delhi School of Economics. My parents encouraged my idealism and even when they knew I had joined a Naxalite group (I told them myself) they did not forbid it. I think the reason was that they wanted me to see and understand how poor Indians live and become sensitive to their needs.

They instilled in me an idealism based on their liberal, secular and humane worldview.

As a child I was taken to see Bhakra Nangal Dam, so that I could feel the wonder at the temples of modern India, and later my mother took me to Vishwabharati University to absorb a little of Tagore's vision and then to Aligarh Muslim University, so that I could understand the contribution made by Sir Syed.

The first time I was forced to have *roti* instead of our normal diet of rice and meat was, when my parents told me that Tamils

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are not getting enough rice and so we must sacrifice for them. Later, I was sent across the East Pakistan border so that I could see the birth of a new nation, Bangladesh.

At that point I saw no contradiction between supporting the right to self-determination of the people of Bangladesh and opposing the right of the Naga people. Therefore, when I went to England at the age of 20, I met my father's teacher at the LSE, Prof Raymond Firth, the legendary anthropologist. He asked me, "Why don't you give independence to the Nagas?" And I replied without any hesitation, "for the same reason you do not give independence to the Irish."

Later, when two landless peasants from Andhra, Kishta Gond and Bhoumaiah were hanged, I cut out the news reports and cried every time I read their story. I read about Sacco and Venziati, Ethel and Julius Rosenburg but I supported the hanging of Maqbul Bhatt in February 1983 because I thought he was anti-Indian.

So you see, Prof Bipan Chandra, I did not support any movement for self-determination which I thought may endanger India's security, and I was even not against capital punishment, a basic human rights issue. I was a secular Indian not concerned with democracy, human rights or the right to self-determination.

I know that we can be blind to the pain and suffering of others because our ideology makes us dehumanize the other. In the name of Indian nationalism we can actually justify gross human rights violations and thus become vulnerable to Western interventions.

Human Rights versus Indian Nationalism

It was while I was in Jawaharlal Nehru University that I met Nagas for the first time. I was attracted by their warmth and honesty. I emphatically did not support their anti-Indian sentiments.

So in 1982, when a Naga friend told me his brother had been picked up by the Indian army and brutally tortured and then his body thrown away because they thought he was dead, I was angry and ashamed. I was willing to expose the role of Indian security forces in human rights violations even though I was emphatically against the Naga movement.

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We organized a women's fact finding team to go to Ukhrul, a Naga-inhabited area of Manipur. The team had women from different political persuasions: Premila Loomba from the CPI, Subhadra Joshi from Congress (S), Kirti Singh from Janvadi Mahila Samiti (CPM), Pramila Dandavate (Socialist, Mahila Dakshita Samiti), Urmila Phadnis (People's Union for Civil Liberties) and myself representing People's Union for Democratic Rights (PUDR).

It was the first time any of us had been to Manipur and none of us knew the difference between the Manipuri Meiteis and Manipur's Nagas. Mrs Dandavate gave her first speech in Ukhrul (Naga inhabited area of Manipur) saying she was so happy to be in the land of Arjun and Chitrangada. The Nagas politely left out that part in their translation. The reference to Hindu epics had no meaning to most of the audience and those who understood the reference thought of it as another example of ignorant Indians trying to impose their alien culture on them.

Our team travelled to remote villages in East District, as Ukhrul was then called, and we saw for ourselves the effects of counter insurgency. There was a young man with a swollen belly being watched over by his wife of less than a month. There were two women whose husbands had been picked up by the army and had disappeared. It was my first encounter with "disappearances". Prof Bipan Chandra, I shall not describe the details of the horrors we saw because I can already hear your comments. You want to know why the security forces beat, torture, maim and kill villagers. Yes in that case it was in the aftermath of an ambush on the Imphal-Ukhrul road on February 19, 1982 in which 22 personnel of the 21 Sikh Regiment were killed by the newly formed National Socialist Council of Nagaland (NSCN).

The question is whether large-scale human rights violations by the Indian security forces are a justified response to insurgency? Is state violence in response to non-state armed resistance legitimate way of dealing with citizens? Isn't an insurgency an expression of a people's democratic aspirations not allowed expression by other means? At that time I did not have answers, only questions. But I knew that the Indian public at large must be told what the Indian security forces were doing in Naga inhabited areas of Manipur.

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Back in Delhi, I drafted our fact-finding report. The newly formed Naga People's Movement for Human Rights (NPMHR) wanted to release it to the Press. But I was in for a shock. Premila Loomba and Subhadra Joshi refused to sign it. They said it would be anti-national to make such a report public. I made seven drafts in an attempt to get them to agree. But finally the report was signed by only four of us.

Subhadraji was someone I had greatly admired and had even campaigned for her when she stood for elections from Old Delhi. Her weekly, *Secular Democracy*, was the only regular publication which addressed itself to the problem of secularism. She was a "secular fundamentalist" if ever there was one. Why was she not willing to speak out on the issue of human rights?

After all, the four of us who signed it were no less national or any less secular. None of us supported the Naga movement for secession although we did not think political problems could ever be resolved by brutal repression. Repression only served to alienate people further from our country.

In 1990, I went on another fact-finding. It was also an all-women fact finding group. This time it was to Kashmir. I have before me our two reports on human rights violations by the armed forces in Naga areas and in Kashmir. This time the human rights violations were even more brutal. The alienation of the people even greater.

Our Kashmir report ends almost on the same note as the report on Ukhrul: "The cases documented in our report bare testimony to the fact that the use of the security forces for internal security has only antagonized the people of Kashmir not only from the armed forces but also from the rest of the country. It is politically bankrupt approach which resorts to military solutions to political problems.

"Between the aspirations of Kashmiri people and government's attempt to psychologically and physically disable them, a peaceful solution becomes remote."

Human rights violations by the Indian security forces in the North East take place within the legal framework provided by the Armed Forces (Special Powers) Act, 1958. There has been a long-standing demand of the peoples of North East that the Act be repealed because it violates the letter and spirit of the Constitution

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of India and international human rights treaties to which India is a signatory.

The Indian state has paid no heed to the demand. I filed several writ petitions challenging the constitutional validity of the Act. The writ petitions were pending before the Supreme Court for more than 10 years. The media was indifferent to the issue. Meanwhile, I had moved to the North East from April 1988 to 1991 to conduct another case on behalf of the NPMHR. This time it was concerned with the human rights violations of Nagas in Senapati Distirct of Manipur by the Assam Rifles.

The human rights violations in this case included forcing two pregnant women to give birth to their babies in the open ground in front of the jawans. I have written so many pamphlets, articles and petitions that I do not have any words to describe what was done to the men, women and children in the course of those four months that Operation Bluebird lasted. It has been documented in the petition lying before the court. There are 10,000 pages of evidence of inhuman crimes by the Assam Rifles. Those files are rotting in some corner of the Guwahati High Court. I had finished arguing the case in 1990 but the High Court has not delivered its judgement yet. The two judges who heard the case were both transferred out. One of them became a Judge of the Supreme Court and later created considerable controversy over the Tehelka enquiry.

It was more than a decade since I personally had been taking cases to focus on the working of the Armed Forces (Special Powers) Act. In 1983 we even got an order from the Supreme Court that educational institutions and churches must not be used as detention centres. But none of the Governments were willing to respond. Having exhausted all domestic remedies, I decided that the only way open was to put international pressure on the Indian state. In March 1991, I went to New York along with an activist of the NPMHR, Sebastian Hongray, to lobby with the Human Rights Committee which was to hear India's second report. We lobbied with the members and told them about the Armed Forces (Special Powers) Act. The officials of the Indian Embassy glared at us as India was taken to task for having such an Act on its statute books.

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No, Prof Bipan Chandra, it did not make me happy to listen to the criticism of my country, but then no one in my country was willing to pay heed to the anguish of the Naga citizens living within our borders.

Our lobbying proved effective. Members of the UN Human Rights Committee were genuinely shocked to learn that such a large part of democratic India had been permanently under emergency rule. Many Members expressed their opinion that the Act violated international human rights standards and even short circuited the criminal law of the country.

India did not pay attention to the advice of the UN Human Rights Committee. The Supreme Court upheld the validity of the Act in 1997. In the meanwhile the Indian Parliament passed the Armed Forces (Jammu & Kashmir) Special Powers Act, 1990, giving the Indian security forces wide powers to commit unspeakable human rights violations.

And then all of a sudden the Armed Forces (Special Powers) Act, 1958 was in the news again. The Assam Rifles had arrested a 32-year old, Thangjam Manorama; they raped her and put a gun into her vagina and shot her dead. Manipur was on fire and there was a popular uprising demanding the withdrawal of the Act. The Congress Chief Minister did not stop the widespread arrests, firing and beating of protesters. The UPA Government refused to withdraw the Act. Instead they set up a Review Committee to look into possibilities of reforming or replacing the Act.

The Armed Forces (Special Powers) Act was passed in 1958. At the time many MPs raised objections on the ground that it violated the Constitution. The alienation of the peoples of North East had spread to every corner of the region giving rise to armed resistance by thousands of youth. They had no forum for the redressal of their grievances.

The UPA Government baulks at the idea of giving in to the popular demand for the withdrawal of the Act in case it gives a boost to insurgency.

Mani Shankar Aiyar dismisses the insurgents as "ethnic chauvinists in the north east" and you, Professor Saheb, claim in your "*Communalism: A Primer*" that the task of "integration of tribal people" is complete. You have written, and I quote the entire

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sentence: "After Independence, we have successfully met the threats to Indian unity and resolved the problems of the linguistic states, national and official languages, the integration of tribal people, the question of reservation and social justice and the low position of women."

Who Are You Fooling, Prof Bipan Chandra?

At our centre we did not learn anything about the rich history of the peoples of the North East. We did not know that Nagas began their struggle for self-determination in the 1950's. They began by articulating their demands in a democratic and peaceful manner but when they found that Indian state had no intention of listening, they were compelled to take up arms. Today almost every community in the North East from the Karbis in Assam to Khasis in Meghalaya to Changlang in Arunachal Pradesh have the beginnings of armed struggle.

In Kashmir also people have been resisting Indian occupation of their land since 1947. The Hindutva forces have been fighting against Article 370 of the Indian Constitution which gives Kashmir limited autonomy. Mani Shankar Aiyer writing in 2004 almost assures the BJP that even this autonomy will "wither away". He writes: "This is the wrong time and wrong context in which to agitate for the abrogation of A 370. In course of time, it will wither away of its own accord. Those who are attempting to make this non-issue into the central issue of our politics are only endangering the unity and integrity of the country at a time of grave national challenge."

So my first question to you, Prof Bipan Chandra, is why do so many people living within our borders feel a sense of alienation from Indian nationalism? Could it possibly be because secular Indian nationalists do not respond to their political aspirations and even deny their basic rights?

Prof Bipan Chandra, I am sure you knew I was involved in the campaign for the fair trial of Geelani. I wonder what Mani Shankarji thought about our campaign? And you? Did you not think I did the right thing by fighting for the right to a fair trial for a Kashmiri Muslim when the Hindutva fascist forces were in power?

I still find it shocking that many of the teachers belonging to the left and secular teachers unions felt that our campaign was jeopardising the chances of fighting the BJP on the campus. They

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felt we should not defend a Delhi University teacher's right to fair trial since he was accused in such a sensitive case as the conspiracy to attack the Parliament. They wanted to be careful not to appear anti-national.

Let me tell you the facts.

Delhi University Teachers Association (DUTA) Condemns Geelani

Before I made up my mind to take up Geelani's case, I called two comrades, Kamal Mitra Chenoy, a member of the CPI and Prabir Purkayastha, a member of the CPM, and asked them what they thought about my taking up Geelani's case. Both of them encouraged me in their individual capacities but warned me that their parties had already decided not to take a stand on the issue. Kamal told me that his party had expressly forbidden him from taking active part in the campaign for fair trial for Geelani. Ali Javed of the Urdu Department and a friend of Geelani had also been warned by his party, so he was not able to take public stand on the case. Kamal defied his party by speaking at our meeting and even attending the court to show his solidarity. But that was purely in his individual capacity.

The CPI's stand had a direct bearing on the fact that the Federation of College and University Teachers Association (FEDCUTA) did not even give a statement demanding fair trial for a Delhi University teacher who many believed, even at the time, was being framed. Kamal Mitra Chenoy was the President of the FEDCUTA.

The Delhi University Teachers Association (DUTA) President at the time was Saswati Majumdar. She belonged to the Democratic Teachers Front (DTF) which is affiliated to the CPM. Saswati knew Geelani personally because he was an active member of DUTA and sympathetic to the left-secular politics in the campus. In fact, Geelani was confident his union would take up his case and he entirely relied on his friends and colleagues to intervene and speak on his behalf. He always saw himself as part of the left-secular-democratic community.

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That is why he was shocked to learn after his acquittal that on December 21, 2001 — less than a week after he had been arrested — the Staff Association of his college, Zakir Hussain Post-Graduate Evening College, passed a resolution demanding Geelani be given the severest punishment.

The Resolution was in Hindi and signed by the President of the Association, Sudhesh Pachauri and the Secretary, Manjula. The former was a Professor in the Hindi Department. He had been active in DTF but I am informed that he was no longer a member of DTF at the time when he initiated this Resolution.

I have translated the Resolution for you:

> In an emergency meeting the Zakir Hussain Post Graduate (Evening) College Staff Association strongly condemns the terrorist attack on Parliament. The Association expresses its deep shame and sorrow that one of the members of the Staff Association, a lecturer in the Arabic Department, Sayed Abdul Rahman Geelani, was a participant in this anti-national and anti-democratic activity. The Association strongly condemns this anti-national behaviour of its member and demands that strong action be taken against Geelani and other offenders.
>
> Zakir Hussain College has always been in the forefront of education. The College has made an enormous contribution in fostering national unity, integrity and the secular tradition of the country. Master, Ramachandra, Maulana Abdul Kalam Azad, Dr Zakir Hussain and other such great nationalist personalities have given their blessings to this College. Geelani's action have put a stigma on this great history of the College. All sections of the College express their sorrow and demand severe punishment for all the offenders.

Geelani was under detention in the Special Cell police station, being tortured and refusing to give a false confession because he wanted to protect the honour of his University. Pachauri did not have the decency to apologize to Geelani even after he was acquitted. I do not know under what pressure such a Resolution was passed but the Special Cell was doing its best to make the University authorities to terminate Geelani's services. They put pressure on the Principal, Riaz Umar Saheb to terminate Geelani's services.

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On the one hand the ultra-nationalists of the Sangh Parivar wanted Geelani's services terminated because he was a Kashmiri Muslim and therefore, by their logic he was a pro-Pakistani terrorist, and not entitled to get the protection of the law or the Constitution. They were satisfied with his trial by the media. And on the other hand Saswati Majumdar, President of DUTA, had made a similar demand in a resolution. How could anyone belonging to a communist party demand punishment for a member of their Union even before the trial has started? The question still haunts me.

After the case was over, I interviewed the teachers of Delhi University to find out how and why DUTA had passed such a Resolution against one of their own members in violation of all democratic norms. I have pieced together the story.

There was a small news item in at least one newspaper reporting the DUTA Resolution. Well, thanks to the news report some other teachers in the Delhi University found out about Saswati's statement. One of them was Tripta Wahi, a member of the DUTA Executive at the time. She is, as you know, a senior History teacher in Hindu College and an active member of the Forum for Democratic Struggle (FDS). Tripta phoned Saswati and asked her how she could have presumed to give a statement on her behalf. The President replied that she had issued the statement on behalf of only the office bearers. Besides, she told Tripta that the Zakir Hussain College (Evening) Staff Association had also passed a resolution demanding action against Geelani. And it was a policy of the DUTA to endorse the views of college staff associations.

I feel a deep sense of shame that so many secular and left people can so easily fall into the ultra-nationalist trap because their commitment to basic principles of human rights is so shallow. We, on the left, have ever so often dismissed human rights as an invention of western imperialists as do our radical Islamists and Hindu fascists. It is only the liberals who take human rights seriously. And so, it was a senior sociology teacher of the Delhi School of Economics, Anand Chakravarti who confronted Saswati Majumdar and asked her why she had issued a statement demanding action against Geelani when every citizen must be

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presumed innocent till proven guilty by a court, he was genuinely shocked when she replied: "But he is guilty!"

Prof Bipan Chandra, I know you will say that I am exaggerating the harm done by the initial reaction of the DUTA President. After all, it was the members of the DTF who were the most active in the campaign for Geelani's acquittal and four years later on February 11, 2005 the DUTA did pass a resolution in its general body meeting condemning the murderous attack on Geelani. The point I am making is that there has always been a tension within the left-secular circles between their commitment to secularism and their understanding of human rights.

We need to probe into why a left union could have condemned one of their members to death even before he had been formally charged by the police. Why did they not think that the demand for a fair trial for a Kashmiri Muslim was an integral part of the fight against communal-fascist forces? After all, those teachers who took up the campaign for Geelani's acquittal also did it out of their commitment to secularism.

While Tripta and her friends were challenging Saswati, an active member of Saswati's Union, Madhu Prasad was working very hard to make sure Geelani's services were not terminated. Madhu Prasad of Zakir Hussain College (Morning) is a senior teacher in the Philosophy Department and an active member of the DTF. She did not know Geelani personally. But Madhu was angry at the way Geelani was being treated by the police and the media and she felt there was a need to intervene. She told me she was so impressed by the fact that he had not given a confession even though he had been tortured. For her, that fact alone spoke volumes for his courage and moral strength. Besides, she felt she could not allow the NDA to define the meaning of nationalism. Let me allow Madhu to speak for herself:

> To my mind there is no nation if an individual citizen of the country cannot get his democratic rights. That is democracy, that is a republic. And my nation at any rate is a republic in which individuals are taken as innocent till proved guilty. So that is exactly the position we took with Riaz Umar Saheb. We said Riaz Umar you tell them (the University authorities) very simply that

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you have no basis for my passing an order for termination of Geelani's services. There are only newspaper reports. You see until then there was no official intimation to the college. Riaz Umar Saheb said all I know is that Geelani Saheb has not come to college since December 14 and I have read in the newspaper that he is implicated in this case but no appropriate authority has informed us or told us what are the charges against him. So we sent this letter to the University.

Soon after this the college got a letter from the police stating that Geelani was charged with conspiring to attack the Parliament. You see the University administration were putting a lot of pressure on the college to terminate Geelani's services. They even called a meeting of the truncated Governing Body on December 23 the day Geelani was sent to Jail. They wanted to terminate his services and get rid of him. If they had succeeded then it would have been very difficult to get him his job back even if he was acquitted.

I wanted to pre-empt the Governing Body and not allow it to take any decision. The meeting was fixed for December 23 at four in the evening in our college. I phoned a senior advocate and asked his advice and on the basis of that we drafted a letter to the University focusing on the following three points:

> That the termination of one teacher's services affects the service conditions of all teachers therefore we contest the right of the University to call a Governing Body meeting to put pressure on our College and it amounts to harassing us;
>
> That we contest the right of the truncated Governing Body to take a decision which affects the service condition of all teachers;
>
> That the charges under POTA violate the provisions of the Constitution and any action to be taken against the employee of the College under the Act would be in violation of the Constitution and set a very dangerous precedent for the future.

Madhu got nearly 40 teachers to sign the letter. The signatories included senior teachers such as Narendra Sharma of the SUCI and Amresh Ganguly of CPM. The letter was on the Vice-Chancellor's desk by 1.00 pm. Then Madhu and her colleagues waited to see if any of the members of the Governing Body would turn up for the afternoon meeting. No one came. And that is how the teachers of

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Zakir Hussain College stopped the University from terminating Geelani's services. They also steered the discourse on nationalism from focusing on national security to focusing on the rights of citizens who make up the nation. Their intervention focused on nationalism not as a geographical territory but a Constitution which must guarantee rights to citizens and equal rights to all citizens irrespective of the citizen's religious beliefs or geographical origins.

Within the Democratic Teachers Front (DTF) too there was considerable anger that the DUTA should have taken such an anti-democratic stand. There was a seven hour long meeting in which DTF members such as Madhu Prasad, Nandita Narain, Neeraj Malik and many others whose names I do not even know fought for Geelani's right to be protected by his Union. It was finally decided that DTF members could campaign for fair trial for their colleague but only in their individual capacities.

Prof Bipan Chandra, I really do not understand why the secular fundamentalists defend their secularism and nationalism in opposition to democracy and human rights. It was those teachers who belonged to the liberal tradition and did not identify with the left or with nationalism who took up the issue of right to fair trial most seriously.

One of the first teachers to express concern and visit Geelani in jail was Anand Chakravarti. He told me why he had felt so disturbed by the news of Geelani's arrest. He described himself as a non-political person who takes his professional work very seriously. Let me quote him:

> see my response is purely as an individual but I have a notion that I belong to a teacher's community. I felt that a fellow teacher was being treated as guilty without due process. And I thought that was a major injustice in terms of my understanding.

I then asked him what he thought about the concept of nationalism and he replied:

> I have never thought seriously about nationalism or the concept of nationalism does not have much appeal to me. I think one must be a decent member of one's community.

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On Kashmir he said:

> I think that defining a commitment in terms of territorial integrity is an anachronism. But people should be allowed to live their lives as individuals, as members of a community but I do not think it matters to me very much how boundaries are drawn.

I think the depth of Anand's passion for his profession is reflected in his letter dated August 26, 2004 to the Vice-Chancellor after the police had stopped his department from holding our exhibition of posters entitled 'Lies of Our Times' telling the story of Geelani's arrest and trial.

We had approached several departments for permission to hold our exhibition and everyone had refused. Prof Badal Mukherji of Delhi School of Economics in his brief letter of refusal quoted a notification of February 18, 2002 as an excuse for not allowing the exhibition in his institute. The Notification No Estab. II (i)/ 2002/61969 from the Registrar states: "I am directed to inform you that it has been decided that the University premises and grounds should not be allowed to be used for work not connected with the University, without prior approval from the Vice-Chancellor."

In fact, the notification from the Registrar to all the Heads of Departments had been issued in the context of increasing number of teachers doing private consultancy work. But now, it was being used to curb the freedom and expression of the university community.

Dear Prof Nayyar,

> I have been unable to contain a deep sense of disquiet ever since the proposed exhibition at the department on 'Lies of Our Times (2-4 August 2004) was called off following a telephone call from the Pro-Vice-Chancellor to Prof Tulsi Patel, the Head of Department (henceforth HOD). I understand the former told the HOD that she would have to take full responsibility for the event, as the Akhil Bhartiya Vidyarthi Parishad (ABVP) were opposed to it, and therefore there could be a breach of peace. Though the intent of the call may have been to ensure that peace was maintained on the campus, its consequence upheld the position taken by the ABVP that the proposed event was anti-national as A R Geelani on whose trial the exhibition focused, was a terrorist.

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I am greatly upset that the higher university administration did not provide support for the event, which prompted the HOD to call it off. Even the lady police official, who was present with the team of policemen clearly suggested that the HOD had erred by not obtaining 'permission' to hold the event (it is not clear, at least to me, from whom permission had to be sought). I am truly amazed that the discretion exercised by head of a university deparment had been repudiated. I therefore sympathise with the HOD's discomfiture and sense of insecurity that led to the cancellation of the exhibition. However, the net result was curbing of the freedom of expression due to the coercive street power of the ABVP. This freedom is not only a fundamental right in the Constitution, but is intrinsic to the spirit of university education.

I happen to teach a course on political sociology, which includes a critical study of the state and its institutions. I believe that the trial of A R Geelani by the POTA court and its subsequent acquittal by the High Court provide a unique opportunity for studying the working of the police and judiciary in contemporary India. As such, my students were deprived of an occasion that had potential of sensitizing them to the distortions that can come in the exercise of state power in a communally charged situation. This is an issue that they may not read about in normal course. As social scientists we know very well that knowledge about the working of a society may be gathered from a variety of sources, and personal experience could play a significant role in this process. Incidentally, the study of the relationship between State and society is one of the thrust areas of the department as a centre of advanced study, and hence the holding of the exhibition would have harmonized perfectly with this interest.

I regret to state that each time I have entered my department since 2 August, I am reminded of the happenings of that day, and the feelings generated within me are extremely negative. I cannot help thinking that my department had been let down by the higher university administration, which so easily succumbed, to the threat of brute force by the ABVP. Throughout my academic career I have entertained the belief that the University is one space where the freedom of expression and the right to information would not be subject to censorship. It is indeed ironically that as I come to the end of my career as a teacher in this University, there are discernible communal and totalitarian pressure that are cutting at the root of what I have presumed to be a University.

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> I look forward to a response to this letter.
> With good wishes,
>
> yours sincerely

Anand Chakravarti did not get a reply.

It is strange that the same Vice-Chancellor had given permission to Geelani to organize meetings in the University for Kashmiri leaders such as Yasin Malik and Shabir Shah. Now he was not only cancelling an exhibition of posters after Geelani was acquitted but was refusing to meet the teachers and discuss with them why he had been forced to take such an undemocratic decision.

Prof Bipan Chandra, I cannot help but think that the real reason for the teachers and their unions for not being able to respond adequately to the situation was that they had never confronted the Kashmir question. The question of self-determination within India is still a subject which is taboo within the left secular circles and for the liberals the question of borders is a non-issue.

In the course of my interviews with the Delhi University teachers who were active in the campaign for Geelani's acquittal, I realized that none of them joined the campaign out of a concern for the Kashmiri people. And this became even more obvious after Geelani was acquitted by the Delhi High Court.

Kashmir in Indian Politics

A few hours after Geelani stepped out of Tihar Jail he addressed a media conference at the Constitution Club. He made a small and precise statement. I am reproducing the parts on Kashmir:

> The question that all of you would want to ask me first is how I am feeling. I think all the suffering and difficulties I have to face for the past two years have made me stronger. I feel even more strong and even more determined to fight for the rights of the people of Kashmir and fight for those innocent Kashmiris who are languishing behind bars in the jail. (Loud claps from his colleagues)
>
> I was not alone in my fight. My friends and those who believe in democratic values supported me and the result of their support is in front of you. But the innocent Kashmiris in jail have nobody

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to support them. They become victims of criminal elements, of a criminal mentality. I think it is very important to state at this point that the judiciary is being politicized and this politicization has robbed it of that credibility that one would like to attribute to it...

After these brief references to Kashmir, he then asked whether there were any questions. I am reproducing the ones with reference to Kashmir:

Q. What is your view on the Kashmir movement?

A. I have said my stand on Kashmir many times. I regard the whole of Jammu and Kashmir as disputed territory and I advocate a peaceful solution.

Q. What is the solution?

A. The solution must keep in view the aspirations of the people of Kashmir.

Q. Are you for independence of Kashmir?

A. Well, if people of Kashmir want independence I am for it.

Q. You spoke about Azadi on the day you were sentenced to death.

A. I did not.

Q. I was there.

A. No I did not make that statement. But if people of Kashmir want independence I am with them.

The journalists were deliberately telling a lie about Geelani's statement on the date he was sentenced to death. Geelani had said: "By convicting innocents you cannot suppress feelings. Peace comes with justice. Without justice there will be no democracy, it is Indian democracy that is under threat." Geelani had asked Justice Dhingra permission to make a statement and the Judge had told him to ask the police! Geelani had barely spoken those two lines when the police put their hands on his mouth and dragged him away from the media. None of this was reported by the free and independent media!

The media once again distorted Geelani's views and statements. They did not report on his descripton of the cages in which high risk prisoners were kept. They did not focus on his call for jail reforms, instead the headlines screamed that Geelani had

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called for *azadi*. And I got phone calls from his colleagues to say he should not speak on Kashmir and it was unwise of him to do so. Some of this advice came from a genuine sense of fear for him but others felt uncomfortable that he should speak as a Kashmiri nationalist espousing the cause of his people.

There was also another strong reaction from the doyen of anti-emergency movement and one time leading democratic voice in our country, Kuldip Nayar. He wrote an Opinion piece that was published in *The Indian Express* of November 4, 2003 a few days after Geelani was acquitted by the Delhi High Court.

Kuldip Nayar attacked Geelani for making a political statement instead of praising the judiciary at his first press conference after his acquittal. Kuldip Nayar lashed out against him: "The case against Geelani was not that he had been wrongly involved in some agitation on Kashmir. He was taken in and tried because he was a suspect in the attack by the militants on Parliament House which symbolized the country's sovereignty. The militants wanted to kill the representatives of the people. For Geelani to mix the Kashmir question with the attack is to politicize a heinous crime."

Kuldip Nayar continued his harangue: "Whether the Kashmiris should have an independent country or not is a serious matter which does not have to be bandied by a person after acquittal. Geelani is hardly the person to raise the question whose claim to fame is that the police slapped a case which it could not prove in the court. He has only raised doubts about his ambitions."

Kuldip Nayar had begun by saying that "numerous human rights activists felt relieved that his innocence had been proved" and then says the police could not prove the case against Geelani. Kuldip Nayar had missed the point. Geelani was framed because he was a Kashmiri. He was a political prisoner and like any political prisoner he was affirming his politics on his release from the jail.

Kuldip Nayar did not even think it was necessary to show any solidarity to a young Kashmiri political prisoner. He did not think that Geelani's statement could be a reflection of his courage and not his ambition. He spared not a single thought to what Geelani said about other Kashmiri prisoners locked inside Tihar Jail. Kuldip Nayar's central concern in that article was the bus service between

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Srinagar and Muzaffarabad and Indo-Pakistan talks in which Kashmir seemed to be incidental. Kashmiri lives could so easily be sacrificed at the altar of Indian (and Pakistani) national interests.

Prof Bipan Chandra, this brings me to the second question that I wish to ask you: How many lives do we need to sacrifice to keep our country united in its present structure? Is this a viable political framework?

Defining Indian Culture

If we go back to the debates in the Constituent Assembly we get a glimpse into the real problem. Broadly there have always been two competing visions of India. The first expressed by Seth Govind Das:

> It is true, we have accepted our country to be secular State but we never thought that acceptance implied the acceptance of a continued existence of heterogeneous cultures. India is an ancient land with an ancient history. For thousands of years one and the same culture has all along been obtaining here. This tradition has been unbroken. It is in order to maintain this tradition that we want one language and one script for the whole country. We do not want it to be said that there are two cultures.

Shankarrao Deo expressed a diametrically opposite view:

> The very word 'culture' has a dangerous meaning. One does not know exactly what it means. The Chief of the RSS Organization appeals in the name of culture. Some Congressmen also appeal in the name of culture. Nobody tells us what exactly this word 'culture' means. Today, as it is interpreted and understood, it only means the domination of the few over the many. Therefore, in the Working Committee Resolution there is no mention of culture, there is no mention of unity. Not that we do not want a culture in this country. But we should call it rather a composite culture; then the different varieties of Indian culture must have an equal opportunity of contributing to the moulding, evolving of this composite culture. If you appeal to this country, and insist upon having one culture, then, to me, it means killing of the soul of India.

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But how was this composite culture to be evolved within the framework of the Indian State? What was going to be the basis of Indian unity? Let us look at it closely. Even if you do not agree with me in my interpretation you cannot disagree with me on some basic facts.

In 1947 there were 552 states within the geographical boundaries of Dominion of India. In less than two years, from 1947 to 1949 Sardar Patel had reduced this number to 21 and by 1953 he reduced them to 15. The process of reorganization of states has been described as his great contribution to Indian Unity.

Alladi Krishnaswami, member of the Constituent Assembly reflected the feeling of many when he lauded Sardar's achievements in these words:

> The liquidation of a large number of Indian states scattered like islands over the length and breadth of this land, their merger with neighbouring provinces, has been effected under the leadership of Sardar Patel... The magnitude of this achievement cannot be overestimated when we remember that the existence of a large number of states has been put forward as an excuse by British imperialists for withholding freedom of India.

The year that Sardar Patel had accomplished his feat of reducing 552 states into 15, there was the creation of the first linguistic state in India. It took intensive struggles and large scale violence ending with the fast onto death of Potti Shri Ramulu before the demand for a Telugu speaking state was created in 1953. And that is what set the pattern. The demands for new states have intensified and between 1953 and 2003, we have seen the birth of 13 new states including Jharkhand, Chhattisgarh and Uttranchal.

We still have not resolved the problem of linguistic states. And we have not even begun to apply our mind to the language issue. India was a home to 1652 languages but only 15 were recognized in the Eighth Schedule of the Indian Constitution. Of these, one was Sanskrit, a classical language with hardly any speakers. English was not recognized even though it is the official language in six of the North East states and union territories (except Delhi).

Hindi was recognized as the official language even though it was the official language only in six states and 300 mother tongues

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were included within Hindi in the 1971 census. These 300 languages included Hindustani, Jaunsari, and Nepali. There has never been recognition of the principle of language equality. Indian citizens did not have equal access to their languages. Each language group had to fight for years before getting its mother tongue recognized. In 1967 Sindhi was recognized, in 1992 Konkani and Manipuri finally got included in the Eighth Schedule. The struggle to get recognition is often long and violent. For instance, the Bodo Sahitya Sabha has been demanding the inclusion of the Bodo language in the Eighth Schedule since late 1950s. The state did not respond till the late 1980s after the Bodos took to armed resistance.

In India there are demands for more and more states. Prof Rasheeduddin Khan in his '*Federal India*' has made a list of movements demanding at least 30 more states within the existing states. As communities, nations and nationalities within our borders feel their survival is at stake, that they are not being given a fair share of the development pie or that their cultural identity is under threat, they are bound to assert themselves.

It is not only minority nationalities like the Nagas and the Kashmiris who feel this alienation from Indian "mainstream" politics. Religious minorities also feel increasingly insecure. Ever since the war against terrorism began, Muslims have become the target of violence, humiliation and discrimination. Sachar Committee has documented only a tiny part of it. In the course of our campaign for Geelani's acquittal, I was shocked to learn about the extent of discrimination and violence on Muslims and their feeling of deep insecurity and suppressed anger.

Fighting Against Communalism

One day after Geelani was sentenced to death someone wrote him this postcard:

> Janab Jilani,
>
> What do you think about your Islam. You know, This is dirtiest religion of the world where Females are used to fuck and deliver the Muslim. In your religion, There is No SISTER, Aaunt, mother, There are only Mada, who have vaginal to fucking. Your Mother

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> is also included them, I am sure your Mother has been fucked by your mamu, uncle, your Father brother. You are haram ki Aulad, because your mother has been fucked by so many family member. This is your Fucking religion will destroy yur community.
>
> It was not signed.

Geelani received more than 60 such post cards. The jail authorities delivered each one to his cell but they did not deliver a letter written to him by his ten year old daughter.

When I was recording Geelani's experiences in the Special Cell police station he told me that the verbal abuse was worse than the physical torture. I wanted to record the kind of abuse he faced and I asked him to repeat the words and he laughed and said: "How can I utter those words?" I thought he was embarrassed telling a woman although I have never noticed such inhibitions in him. Hesitatingly he told me that Islam forbade a Muslim from using swear words. When I said he was not "using them" but documenting them he said "it was like those in that postcard".

This post card was reproduced in a poster entitled "Islampophobia" which was part of our exhibition 'Lies of Our Times'. The poster showed the beauty and serenity inside a mosque with a child sitting quietly in a corner. The post card was reproduced at the bottom to contrast the dignity of the religion with the violence of the prejudice. It was before that poster that people stood the longest, wherever we went. But no one referred to it in our register even though they put down their reactions to other issues raised in the exhibition.

We took the exhibition to Bhagat Singh's village near Khatkhat Kalan near Patiala. We put up the exhibition in a hall with the permission of a Sikh Sarpanch. He inaugurated it. It was the day the village was celebrating Bhagat Singh's birth anniversary and thousands of people had come from all over Punjab for a week long programme. We had batches of children and school teachers coming to see the exhibition and we were translating it for each batch either in Hindi or in Punjabi. The children heard the story with rapt attention standing before each poster and they all rushed to sign the register. Many identified the hero of our story with Bhagat Singh. And then the atmosphere suddenly became tense.

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The headmaster entered. He demanded to know what was happening; and the sarpanch and he had a long exchange. But the headmaster objected to the children and his teachers signing the register. He was a Hindu.

It made me very sad to see Bhagat Singh's village divided along communal lines. It was a dishonour to the memory of Bhagat Singh.

This communal divide can be traced to the massacre of Sikhs after Indira Gandhi's assassination in 1984. Mani Shankar Aiyer says that those "who insist that there was a Congress conspiracy to avenge Indira Gandhi have not been able to establish their charges for twenty years after the assassination. While no proof of this charge has been proffered, those who believe that their personal convictions are proof enough to convict those they deem guilty are not prepared to acknowledge that, perhaps, there was no conspiracy."

I was one of the members of the fact-finding team which investigated into the massacre of Sikhs in 1984 and we brought out the report entitled 'Who are the Guilty?' It was a joint report of the PUDR and the PUCL. I know we checked and cross checked every single fact in the report. The report sold thousands of copies in Punjab and many Sikhs told us that it was a balm to their open wounds. They told us that the report showed that at least some fellow citizens were courageous enough to speak out against injustice. But the state banned the report in Punjab and harassed the Sikh printer by opening his tax accounts for ten years.

Mani Shankar Aiyer states that Sonia Gandhi publicly apologized for the terrible events of November 1 to 3, 1984. I sincerely believe that it was a fine and noble gesture. Apologies are given for wrongs committed but Mani Shankar said his party did not commit any wrong.

And no one has apologized to the people of Meerut's Hashimpura in May 1987. It was Syed Shahabuddin Saheb who had requested me to go to Meerut and intervene. He told me about the 33 men who were picked up by the PAC and taken to Murad Nagar and shot one by one near Gang Neher. I filed a writ as a petitioner in person (on behalf of PUDR) before the Supreme Court.

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The Judge tried hard to persuade me to withdraw the petition and suggested I move it in Allahabad. I refused. That Judge later became the first Chariman of India's Human Rights Commission. No one has been punished for those murders so far. It is not even on the agenda of any political party.

While we were campaigning for Geelani's acquittal, I realized that the Muslim community was absolutely silent. I know that quietly in their homes they were following the case and in some mosques in Delhi, including at the Jama Masjid, they prayed that he gets justice. We decided to take our campaign directly to Muslims in Delhi. We decided to inform them about our campaign by taking out a poster in Urdu and sticking it in the Muslim inhabited parts of the city. That night I realized how deep was the chasm that now separates the Muslim community from the majority community.

It was a small incident that made me realize this. It was at Ballimaran where a policeman came and snatched one of our posters away exclaiming "These posters are in Urdu!" as if that was a crime. I replied that Urdu was the second official language of Delhi.

The policeman asked me to read out the contents of the poster and I pretended to read it out, since I knew the contents even if I did not know Urdu. He suspected me, so he went to an old venerable looking Muslim man sitting outside his home, under a tree, enjoying the cool of the night, and told him to read it out. The man looked at the poster and turned his eyes, full of fear and silently asking me what he should do. I told him in a firm voice to read it out. When he came to reading out the statement made by Geelani at the time he got a death sentence, he hesitated again. It seemed impossible that anyone could be putting up posters on behalf of a Kashmiri Muslim "terrorist" accused of attacking the Indian Parliament.

The policeman went away taking a copy of the poster. The old man with his flowing white beard, white hair and white kurta-pyjama turned his eyes full of kindness and asked my permission to say something. He asked: "If I say something will you take it amiss?" I replied that I would not. I thought he was going to warn me not to take up such dangerous work. But he said: "Allah will reward you for your good work."

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I was wondering why he had thought I would object to his blessing. And I realized it was fear: fear that I, a non-Muslim, may not accept a Muslim's *dua.*

I have become painfully aware how deep and wide the chasm that separates the Hindus and the Muslims in India is. Can I relate one other incident? It was one night after seeing a play at Mandi House. I found my mother's oldest friend, Sakina Hasan and her younger sister, Hamida also in the hall. Sakina Apa asked me whether I could drop her sister home. It was in that house in Jor Bagh, many decades ago, at her daughter Arshi's birthday party my eight-year-little sister had rushed to my mother and asked loudly: "Amma, am I Hindu or Muslim?" That night when we dropped Hammi Masie to her house she said: "Khuda Hafiz" but before I could reply she added: "Oh I am sorry, Good night!"

Prof Bipan Chandra, you will be angry with me for attacking Congress party instead of concentrating on attacking the "real enemy", the fascist communal forces of Hindutva. But I believe it is getting increasingly difficult to distinguish between the political stances of the Congress party and the BJP.

The Muslims in India live in fear and there is no secular organization or party which offers them effecitve protection from the politics of hatred. Do you remember the time when the USA denied a visa to Narendra Modi on the ground that he was involved in the 2002 Gujarat genocide? Surely, Modi was responsible for nothing short of crimes against humanity? BJP launched a national campaign on the issue, claiming that denial of visa to the Chief Minister of Gujarat was an insult to India. In fact, Modi was going to the US on the invitation of the Asian American Hoteliers Association but the secular parties led by the Congress condemned the denial on the ground that the US had denied visa to a "constitutional authority". Why did secular parties come to the aid of Modi?

Kamal Mitra Chenoy, a member of the CPI and Professor in the Jawaharlal Nehru University, was perhaps the only member of a traditional left party who protested against the stand of the Congress and left parties. He wrote in the *Hindustan Times* of March 25, 2005 expressing his protest. He wrote:

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> The real reason for this unparalleled support to Modi is an effort to deny the Sangh brigade major political mileage after the US action. Instead of taking a principled position the UPA jumped on the communal bandwagon. Though it cited secular and legal reasons for its unprecedented advocacy of Modi, the real reason is opportunistic politics. This is not the first time. After the genocide, when Sonia Gandhi visited Ahmedabad, she was advised not to meet the widow of Ehsan Jaffery. Such opportunism does not pay. It is not India that has been shamed by the US, but Indian secularism by its own government.

The US refusal to give a visa to Narendra Modi, was largely in response to the campaign of the Coalition Against Genocide in the US. When they discovered that Modi would be coming they lobbied hard with the US Administration to ensure Modi was denied a visa. The Coalition was made in the aftermath of the state-sponsored massacre of Muslims in Gujarat. The refusal of visa by the US to a man involved in genocide should have been celebrated as victory of the democratic and secular forces. Instead the secular and left parties took it as an affront to Indian sovereignty. This is another dramatic example of their political bankruptcy. Probably they thought they were being anti-imperialist by opposing the American action even though it was an action taken on the pressure of human rights groups. They thought it was a way of protesting against US presence in Iraq. Added to this was the unprincipled real politik by which they could deny the Sangh Parivar political mileage. The effect of this politics was the left and secular forces rallying behind Modi, a man responsible for the first genocide against Muslims in independent India.

Prof Bipan Chandra, you perhaps know that I have been living in Goa. In March 2006 there was the first incidence of communal violence against Muslims. It is called the first incident, but in fact there have been several attacks in the past. The only difference was, this time the Muslims protested. I was asked by the All India Milli Council to investigate into the incident. While interviewing some Muslim leaders I met a man in a small town of Sanvordem in Goa who put it all in a one line perspective: "There is nothing to choose between the cultural nationalism of the BJP and the national integration of the Congress."

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Congress party was in power when this violence took place. When Mani Shankar Aiyer visited Goa soon after, I wanted to meet him and give him my report, entitled 'Broken Peace'. But I knew he would be able to do little. Congress party has been admitting members of the BJP into its ranks and they had carried their beliefs and attitudes into the new party of their allegiance. Secondly, even the Muslim organization of Goa was headed by a BJP member. Thirdly the left has a small presence but it chose not to make any intervention.

There have been many incidents of mosques being burnt or attacked in Goa but no one has been punished. There have been incidents where the Muslim community has not been allowed to offer namaz even in their own buildings and most mosques do not have azaan. It is not only mosques but churches and crosses have been desecrated but no one has been punished, even though FIRs are filed and protests have been made.

In the case of Sanvordem, Muslims filed 44 cases about their property being looted or burnt but not a single Muslim named the rioters or arsonists, even though they had seen them with their own eyes. Fear grips them and there is no organization or party to assuage their fears. The BJP has a political agenda for spreading their cultural nationalism and have communalized every issue but the Congress party has no programme to counter their agenda. Congress workers genuinely committed to its secular ideals complained bitterly about their Party's inability to counter the BJP.

My investigations also showed another fact. There was a widespread ignorance about Muslims and anyone with a beard and white kurta was looked with suspicion. One trader who had joined the tablighis and had started wearing kurta pyjama was called 'Osama'.

There was one initiative made locally in Sanvordem where members of both communities came together and drafted a resolution expressing solidarity with the Muslims who were the sole targets of the political violence. Muslims had not retaliated. Even the Administration admitted that.

The relevant part of the resolution read: "We wish to express our sincere regrets for these series of unfortunate events which have befallen primarily upon our Muslim brothers and sisters."

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The next day the front page of Goan newspapers carried a report that a Kashmiri Muslim terrorist by the name of Batloo had been arrested. One English language daily did question the police version of the arrest. After all, how was the media present by 'coincidence' at the Madgaon railway station when the police 'suddenly' arrested Batloo? The news of the arrest added to the tension and suspicion created by the violence. The Sanvordem people backed out of passing a resolution expressing solidarity with their Muslim neighbours who had been the targets of the violence.

The amended line in the Resolution read: "We wish to express our sincere deep concerns for these series of unfortunate events."

India's war against terrorism had reached Goa. One newspaper did have a screaming headline saying that the arrest of the Kashmiri was staged but no one cared whether the Kashmiri was ensured his civil rights, and all that the arrest did was not only to put fear into the hearts of the Kashmiris selling handicrafts on beaches but the entire Muslim community in Goa which was suddenly demonized as terrorists.

The basic ideology of the war against terrorism is Islamophobia and that will only strengthen communalism. Both the Congress and the BJP support the war against terrorism.

Prof Bipan Chandra, my question is how do you intend fighting communalism in the midst of this war against terrorism? You have put forward a 15-point programme on "What Should Secular Persons and Forces Do?" in your *Communalism: A Primer* (2004).

You have emphasized three broad ways to fight communalism:

(1) Development of a composite culture
(2) Emphasis on building unity of our nation
(3) Start a political and social debate

I would like to start the debate by looking more closely at the solutions you offer.

Composite Culture, Secularism and National Unity

I wonder whether you know why the idea of composite culture or syncretic culture or syncretic religion does not appeal to people

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belonging to religious minorities, especially Muslims. Their feelings of insecurity and alienation are not assuaged by Iftar parties and projection of Emperor Akbar as the only secular Mughal ruler. Akbar seems to have become a symbol of secularism because he started a new religion. For the secular fundamentalists, Akbar is the hero, for the vast majority of Muslims his policy of reconciliation with Hindus resulted in hurting the religious sentiments of Muslims. It is strange that we never ask why even his nine jewels never converted to his new religion.

Akbar passed many laws which we would look at as serious human rights violations and measures of authoritarian rule. He pursued a policy by which he persecuted Muslims who wanted to follow their religion. Akbar through a series of ordinances discouraged various Muslim religious observances. Study of religious sciences were restricted, many mosques were closed down and there was a policy to insult and persecute Muslims. Sajda or the prostration reserved in Islam for God was made compulsory before the Emperor.

For Muslims, it is Shaikh Ahmad Sirhindi who is the real hero because he opposed the Emperor's policy and was sent to jail. Sirhindi is portrayed as a villain by the secularists while in popular Muslim literature he is called Mujaddid-Alf Thani, the Renewer of Islam. I am of course not a student of medieval Indian history and I read this in various popular Muslim texts, but I also went in search of the original Persian *Muntakhb't Tawarikh, Vol II*, which is often quoted by these books as a source for a description of Akbar's policy.

But my question to you is how can your symbols of secularism produce a composite culture if those symbols are looked upon as symbols of oppression by religious minorities?

I would like to share with you the critique of "syncreticism". Mani Shankar Aiyer describes Syed Shahabuddin as someone he greatly admires and describes his journal *Muslim India* as "a magazine excoriated as communal by communal Hindu right but which has always seemed to me to address communitarian concerns without being communal, a distinction of considerable importance." But I wonder how he would react to Shahabuddin

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Saheb's article on syncretic religion published recently in *Rashtriya Sahara* (Urdu). The article entitled "Wahadat-e-Adiyan Ki Beja Wakalat", published on April 25, 2005, is a response to Yoginder Sikand's book *Sacred Spaces Exploring Traditions of Shared Faith in India*. It has been published in *The Milli Gazette* of May 1-15, 2005 under the title: "No synthesis of faiths but mutual understanding and tolerance" with a subheading "Human Goal in Multi-religious World".

I would like to reproduce the article rather than paraphrasing his arguments, since it is an important intervention in the ongoing debate about cultural syncreticism as a way of fighting against communalism. Syed Shahabuddin writes:

> No doubt, Hindus, Muslims and Christians do visit each other as a mark of fraternalization during religious festivals. Such festivals invariably have a social aspect. The question arises whether social fraternalization of Muslims and Christians and supplication at the dargahs by the Hindus amount to syncretism which is defined as the fusion of different forms of religious beliefs and practices. History provides us no doubt with the example of the Deen-e-Ilahi which Akbar propounded but which even some of his Nau-ratans refused to embrace. Deen-e-Ilahi died a natural death with Akbar's demise. But the miniature paintings survive. This proves that cultural synthesis has a life of its own while religious syncreticism has a very short life.
>
> Thus visiting dargahs and worshipping the saints comes naturally to the Hindus but Muslims cannot think of worshipping an idol installed in a temple. This phenomenon irks some well-meaning secularists who seek parity and symmetry between devotional practices of the Hindus and Muslims. This is a false secularism. Secularism implies respect for the rights of others to profess and practice their own religion, without interference or sufferance.
>
> What is important is to realize that since Independence, over a period of time, many Muslim shrines have been taken over by the Hindus and converted into Hindu shrines by erasing Islamic symbols, by introducing Hindu rites, by inventing fables to give a Hindu persona to the Muslim saint even by installing Hindu idols. Such assimilation is taking place all over India before our very eyes and the local Muslim community feels helpless against sustained majoritarianism pressure.

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> Today there are 'Muslim' sects which worship Hindu gods or perform Hindu rites at birth, marriage or death. Just like the new breed of modern or progressive or liberal Muslims, the members of these groups are Muslims only in name and only in terms of circumcision of the male child and burial rather than cremation. These groups do not illustrate syncreticism...
>
> What mankind needs today through inter-faith dialogue, is not assimilation or fusion or the creation of syncretic religions but mutual tolerance as a way of life, based on the fact that humanity is multi-religious and that faith and coercion cannot go together... Such understanding cannot come from creating false religions or by distorting true religions or by artificial or superficial socialization. At the same time, any sneering at the quest of every religious group to go back to its roots, to keep to its original form, to regain its spirit and to clear the core of its religious practices from the accretions of the time and particularities of the place must be avoided.

Prof Bipan Chandra, your answer to communalism is that "we emphasize the multi-cultural character of Indian society, as also the gradual, historical evolution of our composite culture." But you do not elucidate the politics of your concept of multi-culturalism. I suspect it is variant of majoritarianism which goes by the name of national integration.

It was because of my involvement in the Parliament attack case that I found myself looking at the debate around *Kashmiriyat*. The only acceptable framework for a discourse on Kashmir for the majority of secular and nationalist intelligentsia is in terms of *Kashmiriyat*. Mani Shankar Aiyer is no exception. I am not an expert on Kashmiri history and I had not really given much thought to the concept till recently. Chitrlekha Zutshi in *Languages of Belonging* is critical of the concept. She writes:

> Nationalist discourse, particularly of the state-sponsored variety, is characterized by a unified and cohesive vision of the nation's past, aiming at peering over internal differences, conflicts, and contradictions in not only the nation's history, but also the history of the nationalist movement that brings its corollary — the nation state — into existence. In case of Kashmir, Indian and Kashmiri nationalist discourses have both converged

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> to define Kashmiri history and cultural identity in terms of a concept widely known as *Kashmiriyat.*

She goes on to write that central to the concept of Kashmiriyat is "the discourse of a unified Indian nation-state based on unitary nationalism."

Bismillah Geelani, brother of Geelani has conducted a wonderfully detailed interview with Sampat Prakash, a Kashmiri pundit trade union leader. It has been published in his book *Manufacturing Terrorism* (2006). If you read it, you will see, it conforms Chitrlekha's conclusions.

Prof Bipan Chandra, we have been constructing our dream of a unified India on the corpses of communities, suppression of cultures, death of languages and destruction of the histories of millions of our peoples. You are angry with me, Prof Saheb. You think I am betraying the values of nationalism and secularism that you tried to instil in me. I am not. I am sharing with you my anguish and pain because I have discovered that I have been party to so much suffering of my fellow citizens.

Ziauddin Sardar puts the problem in this way: "In a world of Western secularism, freedom of expression belongs to those with secular power, or access and opportunity within the secular structures of power. That's the problem with secularism as the pre-eminent truth and doctrine of the West, it renders insignificant and makes invisible all that is outside its purview, all possibilities and potentials outside its framework of power. Secularism masks the will to power; and like all authoritarian ideologies, it nurtures homicidal tendencies."

Is that not what is happening in our country?

Prof Bipan Chandra, do you not think that we need to link the idea of Indian culture to the idea of equality and democracy rather than national security and territorial integrity? Do you not think our country will be safer if it is truly democratic rather than glued together forcibly by a secularism imposed upon us during colonial rule and then imported by the westernized elite? Is not our view of secularism really an instrumentalist one?

It seems to me that secular fundamentalism is a secularism married to nationalism but divorced from human rights, the right

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to self-determination and democracy. Mani Shankar Aiyer's secularism, can only lead to greater alienation of the peoples living within our borders.

In the name of national integration hundreds of Indian languages and cultures have been undermined, diminished and destroyed. When people assert their right to their identity and their culture they are called "terrorists'.

The war against terrorism has delegitimized all protest, dissent and political movements. The manufacturing of a consensual ideology has resulted in regression in public debate and political apathy. If you watch the TV channels you can see that the problem has been turned into an artificially consensual cause. The media, not only in India but world over has taken recourse to appealing to the emotional dimensions of the problem instead of undertaking a critical analysis that might reveal its scope and its political complexity.

In India, the middle class (mainly Hindu upper caste) are like the WASP crying hoarse for revenge against an unknown enemy in the name of fighting terrorism.

The war against terrorism has resulted in a rise of hate crimes against Muslims world over and in India communalism has been strengthened by Islamophobia.

Prof Bipan Chandra, do you seriously think the solution lies in common celebration of festivals such as Holi, Diwali, Eid, Onam and Christmas? You also suggest the observation of an all-India week against communalism with each day devoted to a particular leader, viz. Gandhiji, Nehru, Patel, Subhas Chandra Bose, Maulana Azad, Swami Vivekanand and Bhagat Singh.

You also prescribe the "need to project secular Muslims, Sikh and Christian voices from the platform of secular parties, and people made familiar with these voices. We must actively counter the BJP propaganda that only Hindus are secular and tolerant and that Muslims and Sikhs are basically communal."

Is this not an extremely communal way of thinking that there are some persons who can be called "secular Muslims", "secular Sikhs" or "secular Christians" when there is no category of people in your vocabulary called "secular Hindus". Even within the

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traditional Communist parties Muslim comrades were referred to as nationalist Muslims. This is both patronizing and insulting not only to the concerned comrades but to communism.

I feel a deep sense of shame when I have to see these "secular" Muslims having to explain on the national television or at a public meeting that Islam does not sanction a rape by a father-in-law or the killing of innocent people in a bomb blast. Have you seen how Shabana Azmi and Javed Akhtar have to "explain" Islam to their fellow Indian citizens? Have you had to explain that Hindu religious texts do not sanction the rape of a daughter when 14-year-old-Saritha, daughter of Govindu Enkateshwarlu, a student of Gurukul school of Nellore district delivered her father's child? Even Swami Agnivesh has never had to explain that the Vedas do not sanction communalism and genocide of Muslims in Gujarat.

The secular fundamentalist sees himself (or herself) as the protector of the minorities, but cannot tolerate it when the minorities decide to speak out on their own behalf. When they speak on their own behalf, in their own cultural idiom they are called "communal". Is that not so, Prof Bipan Chandra?

I know you must be very angry with me. You think I am only going to be helping the Sangh Parivar by making this kind of critique. You will shout and ask me: "All right what is your solution?" Prof Bipan Chandra, I do not have a ready made solution. But as a student of history should I not first pose the problem in all its complexity and then try and see where the solution lies?

And I have not finished posing the problem. I think we need to look at this war against terrorism a little closer.

War Against Terrorism

Prof Bipan Chandra, I will not write a tutorial on the US-led war against terrorism. I just want to share with you my experience of how it has lowered human rights standards in India. I fear that these human rights that were won after years of struggle against British colonialism and defended at a great cost during the dark days of the 1975 emergency are going to be wiped out by India's war against terrorism.

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A PTI report dated April 17, 2004 carries a statement of the Chairman of the All India Anti-Terrorist Front and Congress member, M S Bitta. I would like you to read it:

> The Chairman of the All India Anti-Terrorist Front and Congress member M S Bitta today scoffed at Congress High Command for giving tickets to senior lawyer and Congress spokesman Kapil Sibal and for backing Ram Jethmalani alleging that both had sided with terrorists.
>
> Addressing reporters here, Bitta who maintained that he was not quitting the party and was still a loyal member, hit out at Sibal and Jethmalani for defending terrorists accused in the Parliament attack case and those accused of executing a blast outside the All India Youth Congress office in 1993. 'How can the Congress party give election tickets to such lawyers who have sided with terrorists responsible for attacking the democracy of the country?' questioned Bitta, who had survived the bomb attack at the Youth Congress office in 1993.

More recently, Bitta escorted the families of those who were killed in the Parliament attack and instigated them to return the gallantry awards to the President in protest against the delay in the execution of Mohammad Afzal. And Bal Thakeray made some really communal and disgusting remarks against the President of India for delaying Afzal's execution.

Prof Bipan Chandra, should you not protest against this kind of ultra nationalism of the anti-terrorism lobby? Is not Islamophobia a more virulent kind of communalism?

In the USA, the FBI reported, hate crimes (defined as acts of violence or intimidation inspired by prejudice) against Muslims rose by more than 1,500 per cent in 2001. In India we do not have any count of the number of victims of this war against terrorism. How many people, mostly Muslim citizens have been arrested and jailed; how many have been refused jobs or homes by prejudiced employers or scared landlords? We have no count how many children have been targets of cruel anti-Muslim jokes and how many Muslim voices have been silenced by the propaganda of war against terrorism.

In the USA there has been very serious questioning about the motivation and rationale of the war against terrorism. Ted Kennedy, a US Senator gave this statement in the US Senate:

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> The trumped up reasons for going to war have collapsed. All the administrations rationalizations as we prepare to go to war now stand revealed as 'double talk'. The American people were told Sadaam Hussain was building nuclear weapons of mass destruction. He was not. We were told Iraq was attracting terrorists from Al-Qaida. It was not. We were told our soldiers would be viewed as liberators. They are not. We were told Iraq would pay for its own reconstruction. It cannot. We were told the war would make America safer. It has not... Before the war, week after week after week after week, we were told lie after lie after lie after lie.

Prof Bipan Chandra, we too have been fed on lies and half-truths. We have been told that we are the world's biggest democracy but a vast number of our people can not get their voices heard. Our society is so dehumanized that six farmers commit suicide every day directly as a result of our agricultural policy there is no outrage. This agricultural policy is dictated by the World Trade Organization and that is the price we have to pay to belong to 'free' and globalized world. We are told that friendship with USA will bring peace and prosperity. It has made us targets of more violence.

We are told that India has a progressive policy and supports the Palestinian peoples' struggle for self-determination and does not support Israel's occupation of Palestine or of its bombing civilians in Lebanon. Indian people are told that India established formal diplomatic relations with Israel only in 1992 although there has been clandestine co-operation between the two countries since 1972.

We have not been told the price we will pay for our friendship with USA and Israel. We are not told that the West wants a conflict in Kashmir, so it can sell more and more arms to both India and Pakistan, otherwise how do you explain more Indian troops being sent into Kashmir at a time when the Government says that militancy has come down?

Prof Bipan Chandra, do you not see that the Congress party is not remotely interested in fighting against imperialism. The fight against imperialism ended in 1947. Now the party and all its supporters are actively helping Western imperialism capture India's

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markets and colonize our minds. US-led war against terrorism is nothing but a new strategy of imperialism. The United States now occupies 702 military installations throughout the world in 132 countries. The war against terrorism has allowed it to carry out illegal wars against Afghanistan and the occupation of Iraq.

William Blum, a former US foreign service officer who resigned in protest against his country's policy in Vietnam, told his fellow citizens how he would stop this war against terrorism if he became the President of the USA:

> If I were the president, I could stop terrorist attacks against the United States in a few days. Permanently. I would apologize – very publicly and very sincerely – to all the widows and orphans, the tortured and impoverished, and all the many millions of other victims of American imperialism. Then I would announce that America's global interventions have come to an end and inform Israel that it is no longer the 51st state of the union but-oddly-enough-a foreign country. I would then reduce the military budget by at least 90 per cent and use the savings to pay reparations to our victims and repair the damage from our bombing. There would be enough money. Do you know what one year's military budget is equal to? One year. Its equal to more than $20,000 per hour for every hour since Jesus Christ was born.

And you, Prof Bipan Chandra, what would you do if you could become the Prime Minister of our country? Will you release all political prisoners and close down the jails, detention centres and torture chambers? Will you ensure that India once again supports international resistance to imperialism and neo-colonialism instead of becoming an ally of US and Israel? Will you ensure that the creative energies of the peoples of India help build a truly democratic India where class, caste and patriarchy are abolished and where no one is penalized for belonging to any ideology, relgiion or nationality? Will you proclaim that India is a multi-national confederation where every nation, nationality and people have equal rights to shape their destinies in accordance with their unique history and culture? Will you resurrect that dream of India where there will be no poverty, no violence, no hatred and every man, woman and child who is a citizen of our country will feel India is

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where he or she truly belongs. Will history permit us to realize this dream? That is my last question to you, Prof Saheb.

You will take time to answer my questions. Won't you?

With warm regards,

Nandita Haksar

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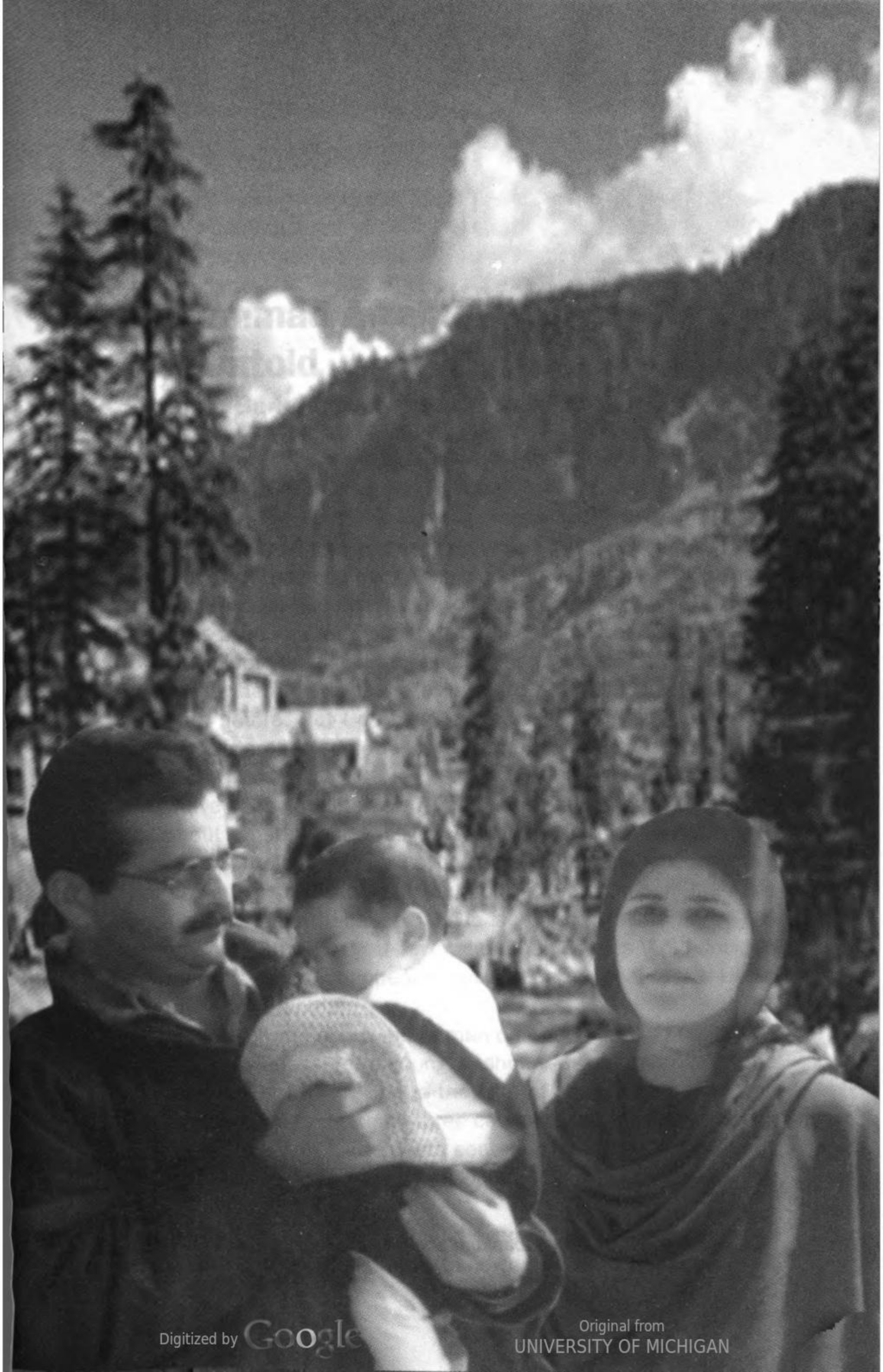

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Mohammad Afzal Guru, Tabassum and Ghalib; a loving Kashmiri family.

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Mohammad Afzal : A Story Still Untold

Letter to Barkha Dutt, Television Journalist

Dear Barkha,

This is my personal appeal to you. Call it pride, self-respect or arrogance but I have not very often made such an appeal to anyone. But I do so now, because I feel you are my court of last resort. I speak as a woman, a feminist if you like, to another woman. I do not for a minute think that women have some innate characteristics that make them more peace-loving. I do not wish to essentialize women's nature. But I do believe that because all of us women live in patriarchal societies we cannot escape the impact of patriarchy in our lives.

I have seen you often on TV and I have seen how strongly you feel about injustice especially to women. I have seen it not only in the way you took up the case of Jessica Lal but also how you have spoken out for Khushboo, Priyadarshi Mattoo, Meher Bhargava and Garima. It is because I have seen the passion and the enthusiasm with which you have taken their causes that I decided to make this personal appeal to you. It is an appeal to you as an individual, as a woman.

Let me tell you about the woman on whose behalf I make this appeal. It is Tabassum, a young Kashmiri Muslim mother of one little boy called Ghalib. She is the wife of Mohammad Afzal, the man condemned to death on three counts for conspiring to attack the Indian Parliament. The death sentence has been confirmed by both the Delhi High Court and the Supreme Court. He is now waiting in Tihar's death row to be hanged.

Are you shocked that I should even think of writing to you on behalf of the wife of India's best known terrorist? Barkha, please

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suspend your judgements and read this letter dispassionately and then come to your own conclusions in accordance with your conscience. If your conscience dictates that you should tear up this letter and forget it please do so. But if your conscience tells you to speak out against the injustice done to Tabassum you must speak out for her as you have done for Jessica Lal. That is my appeal. But please do not think for a minute that mine is an attempt to appeal to your emotion. I would like to convince you of Tabassum's case with hard facts and not sentiments. Most of these facts were put on record by Afzal himself in his statement to the court under section 313 of the Criminal Procedure Code and later in a miscellaneous application filed before the High Court on February 17, 2003. I have also got some additional details from talking to Tabassum and from certain letters he has written from prison, including one he wrote to the All India Defence Committee for SAR Geelani dated January 25, 2004 from ward no 7, Jail No 2.

I would like to begin on a personal note. As a feminist, I have difficulty in separating the personal from the political. As you know, I have been intensely involved in the campaign for the acquittal of S A R Geelani who was accused of conspiring to attack the Indian Parliament. I was involved both in my capacity as a human rights lawyer defending Geelani in the court and as an activist running the campaign. Many people asked me how I could take up the case of an anti-nationalist Kashmiri. Perhaps you too would like to know my motivations for making this appeal to you.

I have only one motivation. My sense of justice has been outraged by the judgement given by the courts and as an Indian I feel deeply ashamed that a man can be sentenced to death without an opportunity to defend himself in a country I call mine. I am ashamed that when his wife made a moving appeal that was published both in Srinagar and in Delhi there was no response. Tabassum's appeal was first published in *Kashmir Times* on October 21, 2004 and reprinted by *The Asian Age* on November 4, 2004.

Tabassum writes that "Afzal and my story is the story of many young Kashmiri couples. Our story represents the tragedy facing our people." I also believe that we cannot judge Afzal without the political context in which he was born and grew up. The context is Kashmir.

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Kashmir

I do not know what your views on Kashmir are but let us look at this long and bitter conflict from a feminist perspective. Does it not occur to you that forced unions between peoples or nations are very similar to forced unions between men and women? A marriage between a man and a woman, imposed by a patriarchal family structure against the wishes of the woman (or the man) results in a family being based on resentment, bitterness and hatred. So does a union between two peoples forced by a state, result in resentment, bitterness and hatred. Not all women forced into such unions protest and many accept it as inevitable, some exchange their freedom for security while others make compromises and accept it as fate. We have seen forced unions within the family result in crushing of hopes, aspirations and dreams of young women and many times young men as well. Forced and unequal unions result in the creativity and beauty of individuals and communities being smothered and killed.

When a woman becomes aware of the injustice, she speaks out, tries to negotiate more space for herself and turns to violence. Her anger turns on her near and dear ones and finally she has to make the choice between freedom and permanent alienation. When she leaves the safety of her home and chooses to live alone she is called many names by her family and society. In the same way when people refuse to accept domination they too try to negotiate, try to speak out, seek a place to redress their grievances and when all avenues for democratic protest fail they take to armed resistance. They are called terrorists.

Do you think this is a far-fetched analogy? I do not think so. If you read the history of Kashmir from the earliest times to this day you will see that the people of Kashmir have been fighting against foreign domination whether it was the Afghans, Mughals or the Dogras and the British. Their history of protest and dissent does not start from 1990 as the official history has tried to make out. It is after all avenues for democratic protest were barred to them and they were denied participation in fair elections that they took to arms in the late 1980s.

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When I went to Kashmir for a fact-finding mission I remember many Kashmiris asking whether Indians cared for Kashmir or for Kashmiris. And I remember thinking that Kashmir was like a very beautiful woman that India and Pakistan wanted to possess. They did not really care what her pain was or what her feelings, desires and aspirations were.

Kashmiris have this strong desire for freedom. That is the overwhelming feeling among the people. This feeling of injustice is reflected in their songs and in their stories. It is a part of the clean mountain air they breathe. Otherwise how would you explain that so many Kashmiri youth who were gainfully employed in government service left their jobs and joined the armed resistance?

Kashmiris are a deeply emotional people. They can act on feeling and think about the consequences later. So many engineers and doctors left their jobs or their studies and crossed the dangerous mountain passes to go to Pakistan for arms training. They were motivated by a heady mixture of religious sentiment and wounded national pride. A young Kashmiri man once sang me a song written by Naaz Barelvi which inspired hundreds of youth to join the peoples' movement for self determination in Kashmir. The song was banned; such was the power of its words. Let me reproduce the words for you:

Pyaari Maa mujhko teri dua chahiye
Bus shahaadat mile mujhko Kashmir mai aur kya chahiye?
Zulm aur Jabr ki yeh siyah raat hai
Aag aur khoon ki tez barsaat hai
Jashn barpa hai lashon ki baraat ka
Jang barpa hai aage barha de mujhe
Muskara kar zara honsala de mujhe
Din par mur mitun yeh dua de mujhe
Baandh ab mere sur pe ai madder kaphan
Aa raha hoon main ai mere pyare watan.
Apne khoon se nikharoon tera bankpan
Zikr kanton pe bhi vaar doon jaano tan.

Ek bosa to de meri gardun ko, maa
Taki maqtal mai mushkil na ho imtihan
La Illah akhir dum ho vird zaban

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Tor dena mere har khilone ai maa
Aansoo se na daaman bhigona ai maa
Dekh kar laash meri na rona ai maa
Shakh bhi mere hathon mai shamsheer ho
Mere khwabon ki bharpur tabeer ho
Ai Khuda jald azaad Kashmir ho
Beej azaadiyon ke bikhere chalo
Bhartiya fauj ko milkar ghere chalo
Bach ke jane na paye lootere chalo
Andhiyon se laraa apne shahbaaz ko
Sar per rakha hath phir bhej parwaaz ko
Aur dua shahaadat ki de Naaz ko.

Dear mother I want your blessing
That I get martyred for Kashmir, that is all I want
This dark night of rain and fire
There is a celebration with a procession of corpses
Push me forward into the war, mother
Give me a smile to give me strength
Bless me that I may die for my religion
Tie a shroud on my head, oh mother
My body is restless to get wounded
I am coming, oh my dear country
River of my blood will augment your bravery
Not only for the flowers of my garden
But for the thorns too I will give up my life.

Kiss me on the neck, mother
So that in the battlefield I can face my final test
And die with the Koran on my lips
Break all my toys, oh mother
Do not wet yourself with tears
When you see my corpse, do not cry oh mother
Let a branch be a sword in my hands
Let my dreams be fulfilled
Oh God let Kashmir be free soon
Let us scatter the seeds of freedom
Let us surround the Indian army.
Don't let those looters get away
Let our falcon fly in the eye of the storm
Let your arms be with the winds
Pray that Naaz dies a death of a martyr.

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You may feel offended with the sentiments of this song but its words inspired many a Kashmir youth to give up the comfort of their homes and the security of their jobs. They chose to give up their lives for their dream of freedom. And one of these young men who gave up his dream of becoming a doctor and left his studies to go across the border was Mohammad Afzal Guru of Sopore in Baramullah District of Kashmir. It was in the year 1990 when the movement was at its peak.

You may feel it was a senseless act. But then, when Nora walked out of her Dolls' House, did not people protest against Ibsen's ending of his play?

Cross Border Terrorism

Mohammad Afzal is far from being the pro-Pakistani, de-humanized ISI-trained terrorist of the Hindi films. He is kind, considerate and thoughtful. His idealism took him across the border but when he reached Pakistan occupied Kashmir (PoK) he was deeply disappointed and disillusioned by what he saw. He witnessed first hand, the clashes between the pro-Pakistani groups and those who wanted Kashmir to be independent of both India and Pakistan. Mohammad Afzal wanted to fight for an independent Kashmir. He wanted to fight for justice for his people but he had no desire to be a part of the proxy war in Kashmir, so he left Pakistan after staying there barely three months and returned home to Kashmir. Afzal did not want either to be dominated by Indians or manipulated by Pakistanis.

Tabassum showed me a letter Afzal has written from death row to a friend in Srinagar. In the letter he expresses his thoughts on the Kashmir problem. Tabassum quoted a part of it in her mercy petition to the President of India and with her permission, I quote just a paragraph so that you may know what a Kashmiri thinks and feels about the conflict that has torn apart his home and heart:

> Our home is in a state of ANARCHY. (Morally-politically, socially etc) sandwiched between two antagonistic Forces. One country is simmering other on indoctrinating the highly volatile

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> kids mobilizing the noble feelings of these uneducated and unaware youth for their own existence and survival. They want to engage the huge Army stricture with huge budget by handful highly motivated people. The other side the Army want to rest and to have highly luxurious life. It is this hypocrisy that made few people to change the state of simmering of pot into boiling state. It got boiled but unfortunately these two countries do not learn rather they do not want make their people to live in peace. They are living on the threshhold of same boiling stage. I was not alone nor I am. I don't belong to any org. I belong to feelings and ideas (felt globally) by those who are being humiliated tortured and silenced unwilling.

After returning to Kashmir, Afzal still dreamed of becoming a doctor but now there was no one to support him. Afzal's father had died when he was still very young and his elder brother, Aijaz was uneducated, eking a living by doing odd jobs. Besides, Aijaz was angry with Afzal for giving up his studies and joining the movement. Aijaz had neither his younger brother's political idealism nor his passion for learning. Afzal's youngest brother worked as a construction labourer.

Afzal always had a desire to know and understand the world around him. Even if he could not become a doctor he wanted to study and he had taught himself English. He went to Delhi where his cousin, Shaukat was living and got admission into Delhi University and managed to finish his graduation. He was in Delhi between 1990 and 1996.

After his graduation Afzal returned to Kashmir and decided to formally surrender. The condition for surrender was that he motivate two other militants to surrender along with him. He fulfilled that condition when he got Nazir Ahmed and Faiyaz Ahmed to surrender, and Border Security Force (BSF) issued him a certificate to state that he had officially surrendered. That is how Mohammad Afzal became a surrendered militant of the JKLF.

In Kashmir, surrendered militants are not given any rehabilitation package or government jobs as they do in other parts of the country. They are expected to work as informers called SPOs (Special Police Officers) or with the STF (Special Task Force)

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camp or with renegades working directly under the patronage of the Indian security forces. If they choose not to work as informers, they have to learn to live with constant harassment, threats, intimidation and torture at the hands of the Indian security forces, especially the notorious Special Task Force. Many Kashmiri youth have simply disappeared after they have been picked up by the STF. Some surrendered militants buy a fragile kind of security by constantly bribing but Afzal was too poor to pay bribes or meet their insatiable demands for money.

In the beginning Afzal lived by giving tuitions in various coaching centres and also home tuitions. A senior police officer, Ashfaq Hussain also asked Afzal to give tuition to the children of his brother-in-law, Altaf Hussain.

In 1997, he started selling medicines and surgical instruments on a commission basis. Perhaps that was his way of keeping a link with his lost dream of becoming a doctor. But the security forces would not leave him alone. On one occasion the police threatened to charge Afzal with selling adulterated medicines and surgical items if he did not pay. He had to pay a bribe of Rs 5,000. He also had to pay the local SPO a monthly sum of Rs 300 and sometimes Rs 500. This was all a part of his desperate attempt to live a decent and honourable life.

Mohammad Afzal is a honest and upright person and that is why Tabassum's father thought of him as a fit son-in-law even though he was a surrendered militant. It was in 1998 that 18-year-old Tabassum got married to 28-year-old Mohammad Afzal. Tabassum means smile and the name suited this young, vivacious girl. She always has a smile on her face and is trusting and lovable. She told me that Afzal was always very kind and considerate husband. Together they dreamed of having a family of their own. Tabassum writes in her Appeal: "Like any other family we dreamed of living together peacefully and bringing up our children, giving them a good education and seeing them grow up to be good human beings."

But the STF would not allow Afzal to live peacefully and with dignity. They constantly harassed him and took him to their camp.

Barkha, you may ask why the STF picked up Afzal. It must be because he must have been involved in the militancy or had some important information to reveal to the security forces.

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In her Appeal Tabassum dealt with the question directly. She wrote: "You will think that Afzal must be involved in some militant activities that is why the security forces were torturing him to extract information. But you must understand the situation in Kashmir. Every man, woman and child has some information on the movement even if they are not involved. By making people into informers they turn brother against brother, wife against husband and children against parents. Afzal wanted to live quietly with his family but the STF would not allow him."

Wife of a Surrendered Militant

Tabassum told me that I could never imagine how difficult it was to be a wife of a surrendered militant in Kashmir, because the people sympathetic to the movement look at you with suspicion and contempt while the Indian security forces do not allow you to lead a normal life. She was faced with the terrible reality on the second day of her marriage in November 1998 when her husband was called to the Army camp in their village. It was a Major Thapa of Rashtriya Rifles who was in charge at the time.

Tabassum would see, even if Afzal did not tell her, the marks of beating and sometimes torture on her husband each time he came back from the camp. He told her that he and other surrendered militants were told to clean the toilets and barracks. The major wanted Afzal to become an informer but Afzal did not want to be a traitor and besides, that would put his life in danger. He desperately wanted to live a normal life with his wife and have a family.

Tabassum said that every Sunday her husband was called to the Army camp and she would wait with fear gripping her insides till he returned home. There were times he would be called twice a week and sometimes the Indian Army would call out for him in the night on the pretext of ensuring he was there at home.

In 2000, Rashtriya Rifles 22 Battalion was posted at Ganjoo House, Sopore. The man in charge was Major Raj Mohan. A day after he arrived he called all the surrendered militants to his camp and beat them. He took Afzal and gave him electric shocks on his genitals using the wires of a phone instruments and tried to make

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Afzal agree to work as an informer. They even came to their house to pressurize Tabassum and Afzal's mother to tell Afzal to become an informer.

Tabassum and Afzal still held on to the straw of hope that they would be able to live a normal family life and soon Tabassum became pregnant. They were overjoyed when their son was born and they named him Ghalib.

Tabassum and Afzal wanted to leave Kashmir and settle in Delhi away from the daily intimidation and torture. But when the Army came to know that they were planning to leave Kashmir they threatened to occupy their house and Afzal's mother refused to leave Kashmir. It was after all the only home she knew.

Torturing Kashmiris with Impunity

One day in 2001 while Afzal was at his shop, the police of the STF camp came and dragged him out and took him away. Tabassum remembers the day well. It was the day that her husband disappeared and she and her mother-in-law frantically searched for him everywhere. For six days they did not know where Afzal was and then they finally found out he was at the detention camp at Pattan near Pahalgam.

Afzal had been whisked away on information given by a local renegade Irshad Massod who told the police that Afzal had contacts with local militants. The DSP in charge at the detention camp was Vinay Gupta. He kicked Afzal and stripped him and beat him. It was after five hours of torture they realized that they had picked up the wrong man. But he was not released for six days and then he was transferred to another detention camp at Humhama.

The officer in charge at Humhama detention camp was DSP Davinder Singh. The officer demanded one lakh rupees for releasing him. Afzal told him that he barely earned Rs 5,000 a month how could he give such a large sum of money?

Afzal did not know that his family had already reached the camp and the officer had made the same demand from them. While Afzal's family desperately put together all they had to sell, to try and raise the money, Afzal was brutally tortured for another 20 days.

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Afzal was kept naked in freezing water in a tub and electricity was passed through the water. One officer by the name Shanti Singh tied Afzal upside down and poured freezing water and petrol in his anus. Shanti Singh proudly told Afzal that he had already killed ten Kashmiris.

Meanwhile Tabassum had collected all the jewellery that she had been given at her wedding and gave it to Afzal's brother to sell it. They also took the Bajaj scooter Afzal had bought only a few weeks ago and sold that too. That is how this one Kashmiri family managed to ruin itself to satisfy the greed of two officers of the Indian security forces, Devinder Singh and Vinay Gupta.

It was while he was at the Humhama STF camp when Afzal met Tariq who said he was from Tral. He too was a victim of STF torture. Tariq advised Afzal to obey STF otherwise they would never leave him in peace. Afzal describes that as a "turning point in his life" because he decided to take Tariq's advice and agreed to stop resisting the STF and co-operate with them.

After Afzal was released he had to have medical treatment. He rented a room in Srinagar and tried to resume his business. Afzal told Tabassum that it was best that they left Kashmir and settled in Delhi. He promised that he would make all the arrangements in Delhi and return for Eid and after celebrating Eid with his mother they would start a new life in Delhi — far away from their life in Kashmir.

Afzal did not tell his wife that he had a message from Altaf (the brother-in-law of SSP Ashaq Hussain). Afzal used to give tutition to Altaf's children since Altaf was under threat of militants. Altaf told Afzal that DSP Devinder Singh of the STF camp wanted Afzal to do a small job. The job was to take one man called Muhammad to Delhi and help him find a room on rent.

The Attack on Parliament

Tabassum did not know that her dream would soon turn into a nightmare from which she would never wake up. The STF was not going to allow them to live their lives. She was patiently waiting for Eid which was to fall on December 17, 2001. She wondered what

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life in Delhi would be like for them and how she would adjust to the heat.

Two days before Eid Afzal was arrested. He was taken to the STF camp. His younger brother, Hilal was also arrested and taken into custody by the STF and kept in custody. There he saw Tariq once again.

Mohammad Afzal was then brought to Delhi and kept in the lock-up of the Special Cell at Lodhi Road. There he was beaten and humiliated. The policemen urinated in his mouth and all over him.

The threat that the STF could kill his younger brother made him remain silent. He did not expose the fact that it was Davinder Singh who had told him to take Muhammad to Delhi. He knew if he tried to tell the media the truth his brother Hilal would be killed. While Afzal was at the Special Cell police station ACP Rajbir Singh allowed him to talk to Tabassum on the phone. The moment he put down the phone ACP told Afzal that if he did not co-operate his family members would suffer. Even during the trial the policeman who had come as a prosecution witness, Akbar a policeman from Srinagar who had arrested Afzal, told him that he should be very careful what he said.

Afzal wrote to a friend:

> In the courtroom he told me in Kashmiri that my family is OK. Indirectly it was a hidden threat which the designated court hardly could realize otherwise in court I would have questioned him but before the court started recording his statement he told me this. Throughout the trial I remained mute and hopeless spectator as witnesses, police and even Judge they all became a single force against me. I remained a frustrated and bewildered and confused between the security and safety of myself and my family. I protected my family and that is how I am lying in death row.

Long before the court had sentenced Mohammad Afzal to death the media had conducted a trial and condemned him. He had been subjected to only one trial in the courts but in the media he has been subjected to so many trials without ever having an opportunity

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to tell his story. In a way the first of the series of media trials began on December 20, 2001 at the news conference held at the Lodhi Road police station of the Special Cell.

Barkha, have you ever asked yourself what it would feel like to be forced to face the national media and confess to the world that you had committed a crime when you had in fact been entrapped into participating in it? Remember, Afzal had hardly recovered from the 25 days of torture at the STF camp. Tariq's advice still resounded in his mind and he told himself, if he cooperated he would be freed. Remember, he was under the terrible pressure to protect his family from harm. His youngest brother was still in the custody of the STF. And remember he was alone.

Mohammad Afzal has described that media conference in his petition to the President of India. He does not appeal to his sentiment but to his sense of justice:

> I told the media what ever ACP Rajbir asked me to tell them. They wanted me to say that one of the terrorists, Mohammmad who was killed was in fact Berger who had hijacked the Indian Airlines flight to Kandahar (PW 67 also alleged in court that I had identified Mohamad as Berger). I said it. They wanted me to say that Pakistan was involved in the attack. I said it. I said what ever they said except for implicating Geelani. They wanted me to say he was the mastermind that he was somehow linked to Al Qaeda but I refused to do this. The moment I said Geelani was not guilty ACP Rajbir shouted at me and told me that I had been told not to say anything positive about Geelani. One of the journalists present at the time, Shams Tahir Khan testified to this fact when he was called as a Defence Witness for Geelani.
>
> Your Excellency, the entire country saw the media conference. They saw me and heard me confessing to a crime that I did not commit. I was portrayed as a mastermind. Even now when my petition is pending before you I am tried by the media and that interview is being shown on the TV channels nearly five years later even though the Supreme Court has held it as inadmissible evidence. I do not really understand why the media wants to prejudice the public against Kashmiris. Surely, this hate and prejudice will not lead to peace and harmony in our conflict ridden region.

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Barkha, have you ever asked yourself why the police, the intelligence agencies or investigation agencies place so much stress on "confessions" supposed to have been made while the "terrorist" is in their custody? These agencies know that the so called confession has no legal value. The ordinary criminal law of the land makes these confessions to police inadmissible as evidence because the law presumes that almost all these so called confessions are false statements extracted under threat and torture. However, even when confessions are judged involuntarily they produce high degree of guilty verdicts. Studies show that even when juries are specifically told that the confession is unreliable and unfair it has failed to lower conviction rates.

How can you broadcast confession made under torture and justify it as ethical journalism? You think you can balance it with statements given by the accused under section 313 of the Criminal Procedure Code. You think the statement to the court of the accused is "his side of the story" but in reality it is never the entire story as the accused is not given an opportunity to tell his story.

Barkha, you know that law presumes that everyone is innocent till proved guilty by a court of law after a fair trial. I believe this is not only a basic protection under criminal law but also the basic principle of a democratic polity. Therefore the media conference which was organized by the Special Cell to make Mohammad Afzal incriminate himself before the national media was a grave violation of the principle of fair trial and of personal liberty. It was a grave violation by the police and that is why the senior police officer denied on oath any knowledge of the conference. It was also a grave violation of all journalistic ethics.

Do you not see how the media becomes an accomplice in short circuiting the entire judicial procedure? Let us look at the contents of the so called interview with Afzal inside the Special Cell police station. I am quoting from the interview of Afzal with *Aaj Tak's* senior correspondent, Shams Tahir Khan.

Afzal Forced to Incriminate Himself Before the National Media

Here are the relevant excerpts from the interview:

Aaj Tak: Was it all a conspiracy?

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Mohd Afzal: Basically the five chaps who entered Parliament were Pakistanis. Basically their chief was Mohammad and the other four with him were Hamza, the second was Haidar, the third was Rana and Raja. Their main motive was to enter and destroy Lok Sabha MPs, the political Establishment and complete (sic) Political leadership. This was the basically first motive they had told me.

Aaj Tak: What was their objective and what did they want to achieve?

Mohd Afzal: What can I say about their motivation? Basically they had some. They told me they had to enter and barge into the Lok Sabha and attack the MPs there. And attack anyone who comes on the way. They did not tell me any particular or specific motive.

Aaj Tak: Who was helping them in this entire operation?

Mohd Afzal: I was doing it.

Aaj Tak: Who was helping you?

Mohd Afzal: They were helping me.

Aaj Tak: Who was helping from behind (the scene)?

Mohd Afzal: From behind their main leader was Ghazi Baba.

And then at the end again the Aaj Tak correspondent returns to the Ghazi Baba:

Aaj Tak: When did you meet Ghazi Baba?

Mohd Afzal: Ghazi Baba I met, almost six months I basically met Mr Tariq. He is Tariq. He is a coordinator between me and Ghazi Baba. I met him before six months but Ghazi Baba I met six months before. Before that I met him three times.

Aaj Tak: How did you contact him?

Mohd Afzal: I was in contact with him through Mr Tariq.

Aaj Tak: What did Ghazi Baba want. What did he want done in India?

Mohd Afzal: Ghazi Baba said that Kashmir had to be liberated. Till then we should not rest, whatever happened.

Aaj Tak: And Tariq, what is his role?

Mohd Afzal: Tariq is a coordinator. He is working for Ghazi Baba for Jaish.

You may remember that three people were declared public offenders in the Parliament attack case: Ghazi Baba, Masood Azhar and Tariq Ahmed. We do not know what their exact roles were. In fact we also do not know anything about the five men who attacked our Parliament except that they were alleged to be Pakistanis.

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Mohammad Afzal says he first met Tariq at the STF camp and that he was also a victim of torture like himself. Afzal says that during the 25 days he was kept in the detention centre and tortured Tariq from Tral was also there. They were both made to clean toilets and wash clothes. He remembers the first meeting with Tariq. It was inside a dark, damp and smelly cell at the STF camp at Humhama. Afzal had been dumped inside the cell in an unconscious state. When he regained his consciousness he found two or three other victims like him. One of them was a man who introduced himself as Tariq. He advised Afzal to live in accordance with the wishes of the STF and fulfill their demands otherwise they would never allow him to live peacefully.

And now Tariq was included in the chargesheet, described as a Pakistani mastermind behind the attack on Parliament.

According to Afzal it was Altaf Hussain (the brother-in-law of a senior police officer, I had mentioned earlier) who took him to DSP Davinder Singh. This time the DSP asked Afzal to do him a small 'favour' and take one man called Mohammad to Delhi and help him find a rented room. There was no way that Afzal could refuse this 'request' so he brought the man to Delhi and found him a place to stay in Christian Colony near Delhi University. Mohammad was the man who was shot dead by the security forces at Gate No 1 on December 13, 2001.

Afzal's Story

Naturally you will ask me why we should give any countenance to Afzal's statement.

The reason is that whatever Afzal has told us has a ring of truth and whatever the investigating agencies have told us has been proved false. If Afzal's story seems unbelievable it is only because we do not want to face the truth. The truth is that many Kashmiris have been framed as ISI agents including Iftikar Geelani and more recently we read about Abdur Rahman Poddar, the daily wage working in the Special Operations Group (SOG). He was framed and killed as a Pakistani terrorist from Multan and member of LeT. Now his body has been exhumed. So, if Afzal says STF asked him

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to bring Mohammad, why should we not believe him? Or at least demand an enquiry into the entire attack on our Parliament.

Why do Indian citizens not want to know the real facts relating to the most serious attack on Indian democracy in our history? After all the British people are demanding a public enquiry into the bomb blasts on the trains and bus in July 2005. The American people have raised many uncomfortable questions about the attack on the World Trade Center but here in India we accept the police version as sacrosanct even when we know that at least two people were framed by the investigation agencies in the Parliament attack case and have been acquitted.

I am not going into the details of the lacunae in the investigation or the lies that the police told the media and the courts. I just want to tell you the story of one Kashmir Muslim woman, a citizen of our country.

Wife of a Terrorist

Tabassum's world collapsed the day her husband was arrested. She never saw the small place that Afzal had rented in Indira Nagar for them to start their new life. All the joy went out of her and that Eid her son did not understand why everyone around him was so sad and not celebrating Eid like his neighbours.

When Tabassum did finally meet Afzal it was inside the Tihar Jail. She had over night become the wife of the most hated man in India, the terrorist who had masterminded the attack on Parliament. When she came to Delhi with her son it was not to settle into a peaceful domestic life but to learn to negotiate the violence of the Delhi roads, the rudeness of the auto rickshawalas and the long waits at the Tihar Jail. Mercifully, Ghalib did not understand too much. But as the days and weeks and months passed he became sullen and angry and then violent. One day when she took him to meet his father in jail and told him that his father was in a factory her five year old son shot back: "I am not a fool; I know Abu is in jail."

Tabassum could not stay in Delhi for long. She could not attend the trial at Patiala House. In any case she would not have understood the intricacies of the law but she did understand that

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her husband did not have any lawyer to defend him while the other accused had got lawyers. But she was helpless. She had her own problems to face as well.

Ghalib had to go to school and she had no one to support her. She had to take up a job in a hospital, and with the monthly salary of Rs 4,000 she earned she supported her son and herself. Her husband's family did not want her because they thought she was a burden and her own parents were terrified of their new vulnerability.

I have watched Tabassum cope with the situation. I have got glimpses of her courage and her love for her husband and she has never stopped hoping that he would get justice.

Afzal is a man of honour. Perhaps that is why Tabassum loves him and is standing by him in this very difficult time in their lives with a death sentence hanging over them. It is through Tabassum that I have discovered what a fine and caring human being Mohammad Afzal is. It was by coincidence. It was the day when his wife came to my house at the time I helped her draft her mercy petition. It was afternoon and I asked her whether she had eaten her lunch. She said no. I had some fried fish and I cut up the onions, tomatoes and green chillies and then asked her whether she would like to cook the fish in the way she liked because the Kashmiris did not like my non-greasy cooking! She laughed and said she did not know how to cook. Then she added: "Afzal did all the cooking. I was so young when we got married. He would keep reading books and cook, wash and clean and in the night he would carry me to our bed if I fell asleep." Then after a little pause she looked at me and said: "That is why I am prepared to wait for him all my life. Just save him from the gallows and I will pray for you so much that you will be well again." And then added: "Even now I ask for *dua* for you but if you save him I will ask for so much, so much that your back pain will just disappear and you will be able to walk."

Wife of an Undertrial

One of the most frightening and humiliating experiences is the search for a reliable lawyer to whom you can entrust the life of

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your loved ones, especially if your loved one happens to be accused of being a Kashmiri terrorist. You are most in need of kindness, empathy and are desperate for some reassurance. Instead you find yourself negotiating fees and waiting endlessly for your lawyer to show up and then the lawyer seldom has the patience to explain things which you find confusing and very, very scary.

Tabassum was spared that experience because Mohammad Afzal never had any lawyer at the Sessions Court trial.

Afzal was in police custody for nearly a month. During the time he was not allowed to see either a lawyer or a relative. I do not need to tell you that the Special Cell did not allow any of the accused in the Parliament attack case access to any lawyer, violating a basic requirement under the Criminal Procedure Code and judgements of the Supreme Court. But then the police at the Special Cell operates mostly outside the law.

From December 15, 2001 to January 7, 2002 Mohammad Afzal was in police custody. During these crucial 25 days when the investigation agencies were making him put his signatures on blank pieces of paper, taking down "confessions", Afzal was denied access to any lawyer. There was no one who came to meet him or try to contact him. He was entirely in the hands of the police and the court records show that the investigating agencies fabricated evidence including the arrest memos. Even the Prosecution did deny the charge that Mohammad Afzal was denied access to a lawyer at that crucial time. There is no dispute over this fact.

The Supreme Court in its judgement in the Parliament attack case noted:

> The access to a lawyer at the stage of interrogation serves as a sort of counterweight to the intimidating atmosphere that surrounds the detenu and gives him certain amount of guidance as to his rights and obligations of the police. The lawyer's presence could pave the way, to some extent, to ease himself of the mental tension and trauma.

The judgement goes on to examine the consequences of denial of a lawyer to the accused and how far he is prejudiced in his defence. And the Supreme Court came to the conclusion that all "these lapses and violations of procedural safeguards guaranteed

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in the statute itself impel us to hold that it is not safe to act on the alleged confessional statement of Afzal and place reliance on this item of evidence on which the prosecution places heavy reliance."

I am sure you will appreciate that the Supreme Court's decision not to take into consideration Afzal's so-called confession is an affirmation of a vital principle of fair trial. But the media, and that includes NDTV, seems to have no qualms about broadcasting that so-called confession without even informing the viewers that the Supreme Court had found it false and inadmissible.

Role of Lawyers

Barkha, do not for a minute think that I absolve lawyers of their responsibilities. I think they also played a very shameful role during the entire Parliament attack case. I believe we lawyers as a profession should be ashamed of the fact that Afzal had to face a trial without ever having legal assistance.

On January 8, 2002 Afzal was finally sent to judicial custody and on January 19, 2002 he was produced before the Designated Judge. The Judge asked whether he would be engaging a lawyer. The Judge noted that Afzal did not want to engage a lawyer. But the fact was that he could not afford one. He knew that his family was hardly in a position to pay any fees. He also knew that most lawyers would be too scared to defend a Kashmiri terrorist accused of master-minding an attack on Parliament.

The Judge offered to appoint amicus curiae and Afzal accepted. The Judge appointed one Attar Alam. But the lawyer never appeared. Afzal was not surprised.

Then the chargesheet was filed on May 14, 2002. The Judge appointed Seema Gulati as amicus for Afzal. On 17.5.2002 Seema Gulati appeared on behalf of Afzal. She conceded that a prima facie charge was made out against him even though she could have challenged the charges. Then court records of June 5, 2002 show when charges were framed she made vital concessions and admitted certain documents so that those documents were taken into evidence without formal proof. These concessions resulted in dropping of several important Prosecution Witnesses which meant Afzal could not undo the damage of these concessions made on

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his behalf but without his instructions and without thought to the consequences to him. And then Seema Gulati gave an application stating that she does not want to defend Afzal. That was on July 2, 2000 — barely a week before the trial was to begin.

It is true that Seema took up Geelani's defence for a professional fee. It was a fee that he could never have raised had it not been for the support of his friends and colleagues. Afzal, who was economically even poorer, could not have raised a fees and no professional lawyer would take time off their practice to defend a Kashmiri terrorist for a paltry sum of Rs 3,000 which is all that the Legal Aid Services Authorities Act provides for. Indira Jaising, senior counsel, who filed the curative petititon on behalf of Afzal in the Supreme Court raised the following point in her petititon:

> In my opinion an important question that has emerged from the present case and has serious ramifications of the rule of law in India is with reference to the scale fixed by the LASA (Legal Aid Services Authority) for Sessions Court trials. The legal aid fee schedule, under the LASA provides for a paltry fee for Rs 600 per effective hearing to the maximum of Rs 3,000 for sessions court cases (involving life imprisonment or death sentence) for advocates. The High Court rules referred above, after amendment in 2003, for trials under Section 302 IPC, provide a fee of Rs 500 for preparation and first hearing in the murder trial and Rs 300 per subsequent effective hearing to a maximum of Rs 5,000. This fee schedule makes the right to fair representation illusionary and a mockery of the right to effective legal aid and is therefore not in consonance of the right guaranteed under article 21 of the Constitution of India. Anything short of appropriate and adequate fees for counsel for indigent and unrepresented accused results in two sets of standards of access to justice, one for the rich and the other for the poor.

The Supreme Court did not go into this very important point raised and dismissed the curative petititon. The media did not express any shock or concern about this dismissal. Instead NDTV had a headline saying Afzal was one step closer to the gallows.

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The Judge appointed Neeraj Bansal as amicus for Afzal. But Afzal refused to accept him. Afzal made an application explicitly stating that he did not want Neeraj Bansal to represent him. And Afzal gave a list of four advocates that he did want: R M Tuffail, R K Naseem, R K Dham and Ashok Agarwal. The Sessions Judge recorded that the first two lawyers expressed their inability to represent Afzal. There is no record of whether the other two lawyers on Afzal's list were ever contacted by the court.

Justice Dhingra then proceeded to foist Neeraj Bansal on to Afzal even though the lawyer himself told the court that he did not want to represent Afzal. The only concession the Judge made was to allow Afzal the right to cross examine the prosecution witnesses himself. Barkha, read the order of the Sessions Judge which records that neither the client wanted his lawyer nor did the lawyer want to represent his client (see next page). The Judge appointed Neeraj Bansal even though he was not on the panel of lawyers maintained by the Delhi Legal Aid Services Authority and so his appointment as amicus was in violation of the Delhi Legal Aid Rules.

The trial began on July 8th and the Prosecution produced 80 witnesses. Neeraj Bansal, the amicus for Afzal, remained silent in respect of the first fifteen witnesses. Even when he did cross examine the witness it was either inadequate or consisted of merely a suggestion. Some of the witnesses were cross examined by Afzal himself. Barkha, see the details of cross examination in the chart submitted by Afzal in his petition to the President (see pp 213-216 at the end of this letter).

On November 16, 2002 the Session Judge observed that the arguments for the defence were being conducted "in a piecemeal fashion" and there is "no discernible defence strategy".

The Prosecution based its case against Afzal on the fact that their witnesses were not cross-examined yet maintained that Afzal had adequate legal assistance. This is a classic case of having your cake and eating it too.

Afzal never got all the papers so he could not prepare his defence. And his lawyer failed to communicate with his client and take instructions, failed to cross examine vital witnesses, did not make any closing arguments, present written submissions or refer to any case law. He did not even attend the court regularly let

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State versus Mohd. Afzal and others.

12.7.2002.

Present:-Shri D.P. Aggarwal, Designated PP for the State.

All the accused persons produced from J.C. Agarwal with their counsel except accused-Navjot Sandhu, who is exempted from personal appearance.

The case is today fixed for prosecution evidence.

After recording one witness today, accused-Mohd. Afzal states that he does not want the amicus curiae, Neeraj Bansal to act on his behalf. He earlier had given the list of four advocates, namely, R.M. Tuffail, Pt. R.K. Naseem, Mr. P.K. Dham and Ashok Aggarwal. This court had inquired from Mr. x R.M. Tuffail and Pt. R.K. Naseem, who appeared in this court in another case, but both of them expressed their inability to become amicus curiae in this case. Mr. Ashok Aggarwal had earlier appeared in this case on behalf of one of the accused and argued the bail application. Thereafter he did not appear. Accused-Mohd. Afzal states that his ~~xx~~ case is entirely different from the case of other accused persons and he does not want to defend himself unless any of these lawyers, named by him above, are provided to him. I consider that if accused wants to have a lawyer of his choice, he is free to engage himself the lawyer of his choice, but if he has not engaged a lawyer of his choice and has asked the court to appoint amicus curiae, the court can appoint amicus curiae out of the panel available with it or out of the willing advocates. The court cannot compell any unwilling advocate, who says that he has no time, to become amicus curiae. Mr. Neeraj Bansal, who was appointed as amicus curiae in this case, had earlier been conducting TADA cases in this court and in this view, the court has appointed him amicus curiae in this case.

I consider that irrespective of accused saying that he does not want amicus curiae, the court has the duty to

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seek the assistance of an amicus curiae in such cases where the accused is not cooperative. Mr. Neeraj Bansal has requested for withdrawal from this case, but he is requested to assist the court during trial.

Accused-Mohd. Afzal has requested to cross-examine the witnesses himself. He is given the liberty to cross-examine the witnesses.

Statement of six witnesses, who were present, were recorded. No other witness is present.

Put up on 15.7.2002 for remaining prosecution evidence.

Designated Judge, N.Delhi.

15.7.2002.

Present:- Shri D.P. Aggarwal, Designated PP for the State.
All the accused persons from J.C. except accused Navjot Sandhu, who is exempted from personal appearance.
Statement of five witnesses recorded.
No other witness is present.
To come up tomorrow, the date already fixed, for remaining P.E.

Designated Judge, New Delhi.

16.7.02
Pr:- Designated P.P. for the State.
All the four accused produced from J.C. with Counsel.
Statement of five PWs recorded. No other witness is present.
To come upon 17.7.02 for remaining P.E.
An application has been made by Lock-up incharge for permitting him to handcuff the accused while producing the accused in the Court. Copy of the application has been given to the ld. Counsels who want to file reply.
To come up for reply and arguments tomorrow.

Designated Judge, New Delhi.

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alone do research into the technical complexities of the case and prepare a legal defence.

Under the circumstances it should not have come as a shock to anybody that Mohammad Afzal was sentenced to death on two counts by Judge S N Dhingra on December 18, 2002. It was a case of Death Foretold. Tabassum had hardly been able to react to the news when the media burst into her home.

In Kashmir there were protests right across the state against the death sentence. But in Delhi the media was celebrating the sentence with gory stories of hangmen and their professional travails.

But hope is a strange thing, Barkha. It has a way of stubbornly asserting itself like the green shoots finding a way in ruins of ancient and dying monuments. Tabassum now set her eyes on the High Court.

Execution by Lethal Injection

Mohammad Afzal felt he had a fighting chance of getting justice when a well-known human rights lawyer offered to take up his case at the High Court. But Afzal was shocked that his lawyer had told the court that he, Mohammad Afzal preferred to die by a lethal injection than by hanging.

Afzal had asked his lawyer to file the details of his torture at the hands of the STF and the lawyer had made an application filing those details on February 17, 2003 but he had added another paragraph and not even shown it to Afzal.

The paragraph reads:

> Appellant states that Section 354 (5) CrPC is unconstitutional and ultra vires Article 21 of the constitution of India, in as much as death by hanging is the only manner of execution prescribed in law and such execution constitutes cruel, inhuman and barbaric treatment and also constitutes exceptionally harsh and cruel punishment. This section was upheld in Bachan Singh's case on the reasoning that death by hanging in its severity is comparable to any other known method of execution; but this is many years ago. In the last decade there have been tremendous strides in techniques of execution and, the lethal injection for example, is

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> proven to be less painful method of causing death. For the legislature to prescribe death by hanging as the only method of execution is arbitrary, harsh and discriminatory and violative of Article 21. The Bachan Singh's case therefore is outdated and obsolete and the issue deserves to be looked at afresh.

You may wonder why a human rights lawyer made such a macabre submission without informing his client and against his client's wishes. I do not know. But around this time the Law Commission brought out a report in support of lethal injections.

A Delhi-based human rights organization of international standing, South Asia Human Rights Documentation Centre, brought out a report on the Law Commission's report entitled "Legitimising Cruel, Inhuman and Degrading Treatment – The Ignominy of the Law Commission of India's Report on Modes of Execution". I would like to quote the opening two paragraphs:

> In October 2003 the Law Commission of India published its 187th report on the Mode of Execution of Death Sentence and Incidental Matters. "Incidental matters" excluded any consideration of the moral and legal basis for the continued use of the death penalty in India, perhaps predicated on the unfathomable assertion by the former Union Minister for Law and Justice Shri Arun Jaitley that "the debate over abolition of capital punishment was losing its sting as 'we have been at the receiving end of cross border terrorism." (as quoted at the proceedings of a public seminar on modes of execution). Rather, "modes suggested by the Commission, viz. civilized methods resulting in instant death by electric chair, or by lethal injection or by firing squad, do need consideration." The commission did not feel that any other discernible explanation was required, and thus proceeded to examine the supposed humanity of execution by lethal injection, as opposed to hanging, according to the barometer of physical pain endured.
>
> The issue is not whether one form of execution is more or less painful than the other. The preceding and predominant issue is whether the application of the death penalty in itself constitutes cruel, inhuman and degrading treatment, irrespective of the level of physical pain that the mode of execution inflicts. Cruel, inhuman and degrading treatment is not confined to infliction of physical pain, but also to mental, psychological and emotional torment in

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> the pronouncement of death, the act of execution and the intervening period. The growing consensus under international law resolutely supports that the imposition of the death penalty, irrespective of the methods of execution, violates these inviolable principles. It is also, according to the emerging consensus under international law, incompatible with the right to life.

This report quotes Tabassum's Appeal in which she wrote: "In the High Court one human rights lawyer offered to represent Afzal and my husband accepted. But instead of defending Afzal the lawyer began by asking the Court not to hang Afzal but to kill him by a lethal injection."

Afzal was very angry when he read about the lawyer's submission in a newspaper but what could he do sitting behind the bars?

The Delhi High Court enhanced his punishment and he was sentenced to death on three counts. However, the High Court acquitted Geelani. It was then Afzal who wrote a letter to us, the All India Defence Committee for the Defence of SAR Geelani. He asked us to help him find a suitable lawyer for the Supreme Court. I am reproducing his letter (see pp 197-198) so you may read it for yourself.

Afzal also sent a copy of the letter through Tabassum.

That is how I first met Tabassum and Ghalib.

Judicial Revenge

It was a few days before the final hearing in the Supreme Court that Tabassum set her eyes on the pink dome of the highest court of the land and she murmured to herself "this is where they will finally decide my fate".

The Defence Committee helped Afzal to get a senior counsel specializing in criminal law. He had a formidable reputation. But it was not going to be without a fee. However, he read the brief and said that this was definitely not a "death penalty" case. The maximum that Afzal should get, if the Court believes the Prosecution's version, would be ten to fifteen years.

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The Division Bench consisting of Justice P Venkatarama Reddi and Justice PP Naolekar heard the final arguments over several months. And on August 4, 2005, Justice Reddi read out his judgement. Afzal had been sentenced to death. Tabassum heard the news in Kashmir.

The media was once again full of stories of hangmen. No one reacted to the reasoning by which a man, an Indian citizen had been sentenced to death without being given an opportunity to defend himself. No one noticed that even the Supreme Court held that Mohammad Afzal did not belong to any terrorist organization.

Let me quote the exact words from the judgement:

> The conviction under Section 3 (2) of POTA is set aside. The conviction under Section 3 (5) of POTA is also set aside because there is no evidence that he (Afzal) is a member of a terrorist gang or a terrorist organization, once the confessional statement is excluded. Incidentally, we may mention that even going by confessional statement, it is doubtful whether the membership of a terrorist gang or organization is established.

Even the Prosecution did not allege that Afzal was at the site of the attack or that he was responsible for the killing of any of the security forces. There was no evidence that he had ever taken part in any violent activity and his conduct throughout the case was quiet and dignified. Even the Prosecution admits that Mohammad Afzal was trying to earn a living and intended to settle in Delhi. Then why did the Supreme Court feel compelled to sentence him to death?

The Supreme Court gave its reasoning why they thought this was a rarest of rare cases:

> The incident, which resulted in heavy casualties, had shaken the entire nation and the collective conscience of the society will only be satisfied if capital punishment is awarded to the offender.

Kashmiris were shocked. They wondered why the conscience of the Indians was not shocked that a Kashmiri could be sentenced to death without being allowed to defend himself. The judgement only served to alienate the people of Kashmir further.

"Magar marz barhta gaya jon jon dawa ki"

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The
Chairman All india defence
Committee For S.A.R Geelani New Delhi

With respect and esteem I would like To inform your honorary committee That in The Trial of parliament Attack case in The designated session court patiala house I (Mohammad AFZAL) accused was not given defence aid / Amicus curie in spite of giving three applications for The lawyer of my own choice. Throughout The Trial I was not allowed To most of The witnesses, police and others To cross-question To Their statements recorded by The session court. Not a single witness was cross-questioned on behalf of me by any legal aid. There were most of The witnesses which I have seen for The first Time in The court and The court went on recording Their one-sided fabricated and self designed statements without any argument or cross-questioning I remained speechless mute helpless spectator as I was not allowed To speak except few Times.

When I was allowed To cross-question one of The media interviewer of National T.V. Channel Aaj-Tak named Shams Tahir, he confirmed and replied That I (AFZAL) was under duress and Threat at The Time of interview as I was Threatened by A.C.P. Rajbeer Singh before mediaman on replying To one of The questions which infact proved The complete innocence of S.A.R. Geelani

The court did not also gave me The recorded statements of The Trial, which was going on, so it was impossible for me To know what The court had recorded.

Being in high-security ward of Tihar Jail where it is Too difficult to communicate with outer people like lawyer etc in a week, I had seen a news Through Indian Express daily That my lawyer had Told The ~~court~~ High court on behalf of me That I (AFZAL) had accepted The death sentence and

P.T.O

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I want only that method/way of killing / hanging should be changed by injecting the powerful toxic injection so as to reduce the pain of dying. I object and challenge this false statement which has been actually given by lawyer himself without my knowledge and consent making my whole process of Appeal a mockery.

The magnitude and the gravity of my unknowing, unwilling and unintentional involvement in the parliament attack case was from the beginning emotionalised and magnified by police through all possible means due to my helplessness, ignorance of law (legal process) and inability to manage the suitable legal aid. Thus the police made me a scapegoat so as to mask their inability and failure to trace out the mastermind of parliament attack and to make people fool. Keeping all these points and facts in view I am requesting to your honorary that the reality of my fabricated involvement in parliament attack case should come out / exposed before the people and supreme court of India. I hope that your honorable committee will consider my humble request with sympathy and I will be highly obliged

Thankyou

Afzal

Yours humbly

Mohammad AFZAL
S/o Late Habibullah Gurru
Ward No 7 High-security ward
Jail No 2 Tihar New Delhi

Dated 26/01/2004
place - Jail No 2
Tihar N. Delhi

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(The more the disease was treated, the more serious it became).

Tabassum's Court of Last Resort

Barkha, I have told you Tabassum's story. Do you think she has got justice any more than Jessica Lal's sister? Do you not see the link between the two stories? In the name of fighting terrorism our democratic institutions are being undermined and the police now live above the law. They can frame anyone as a terrorist, they can let criminals go scott free.

While I appreciate the spirit with which you took up the case of Jessica Lal, I was a bit intimidated by your campaign and the way the public turned into prosecutors.

Remember, Friedrich Nietzsche's words: "Distrust anyone in whom the desire to punish is powerful."

I believe justice is about affirming life. I believe in a just society where there would be no torture, no brutalized force and no prisons. Just as I hate patriarchal family structures in which women are confined within the four walls of their houses which they call home, so too I hate jails and detention centres which confine men (sometimes women and children) within cages. I dream of living in a country without prisons, all prisons.

I write to you to campaign for Tabassum and Afzal. The difference this time will be that you will not ask that someone be prosecuted and punished but that a human life be valued and saved. You will find it is far more noble and satisfying to save a life and you will help ensure that democratic norms and human rights standards are not lowered in the name of fighting terrorism.

After all, in the United States of America, lawyers and media persons have exposed the horrors of torture in Guantanamo Bay, Abu Ghraib, and are campaigning for the rights of those detained or tried as "terrorists". Jurists, journalists, lawyers and citizens including the relatives of victims of terrorist attacks have called for fair trial for the accused.

If you can persuade your viewers to listen to Tabassum, a Kashmiri Muslim woman's story you could make the Indian middle classes overcome their own fears, prejudices, hatred. It could make

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them realize that they are prisoners of the images created by the media. If they listen to the story of a Kashmiri Muslim woman they may be able to understand the story of other Kashmiris.

If you can make your viewers realize India does not need to hang one man to satisfy its collective conscience, India needs to understand him, you may help in making our society more humane. If we learn to feel compassion for Mohammad Afzal, Tabassum and Ghalib, if we can save his life we may even be able to win the hearts and minds of Kashmiri people.

In the 14th century, Kalhan in *Rajtarangini* said: "Such is Kashmir, the country which may be conquered by the force of spiritual merit but not by armed force."

But even more importantly your campaign for justice for Afzal and Tabassum may help humanize our own society. Our society is so brutalized that we are totally indifferent to the fate of our farmers who have been forced to commit suicide because of an economic policy that allows us to do our shopping in Singapore; and in case our business flops we buy bits of a hangman's noose to revive it. Barkha, you know that Dhananjoy's noose is selling at Rs 2,000 a locket, made by his hangman.

Barkha, even within the limits of your corporate world you have the power to save lives, help in bridging divisions and help forge friendships between communities. I shall wait for your response. I wonder if I will get any.

POSTSCRIPT

You have chosen not to respond to my letter. I was disappointed but now I know you a little better. I was shocked when I learnt that till very recently you even supported death penalty. But if you have since changed your stand it only reflects that you are capable of changing. And so once again I write to you.

I have been watching your programmes carefully and reading your articles. I saw you on "We the People" on December 17 in which you had a discussion on "Has the Afzal mercy debate been politicized?" to coincide with the fifth anniversary of the attack on Parliament. Apparently, the panel was evenly balanced between

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those who support death penalty to Afzal and those opposing it. But take a closer look at this apparent attempt at "objectivity" and "fairness".

The panel consisted of Ravi Shankar Prasad, a lawyer and member of the BJP, Abhishekh Singhvi, a lawyer and Congress spokesman, Ajit Doval, former Director of the Intelligence Bureau, and Soli Sorabjee, former attorney general of India — these four were supporting the death penalty for Mohammad Afzal. All of them have held or hold positions of power, are very articulate and were given much more time on the programme than were the people who were supposed to be spokespeople for Afzal: SAR Geelani (not given time in the first round), Sonia Jabbar, an activist journalist, and Premshankar Jha, a senior journalist.

In the course of a programme meant to be on Mohammad Afzal, you asked Ajit Doval about Geelani and not Afzal. You allowed him to make three interventions in which he accused Geelani of being guilty of the conspiracy to attack the Parliament. When Geelani reacted with anger and said: "There was no evidence" and you shut him up with "Geelani Saab, Geelani Saab, I will come to you." But in that segment you did not come back to him and he was not given an opportunity for rebuttal.

You did nothing to protect Geelani from a frustrated intelligence officer who could not do his job and is venting his frustration on the most vulnerable member of the panel. This is plain violence, unethical and without any trace of "fairness" on national television. Will you allow me to say on national television that there are reports that intelligence agencies were involved in the assassination attempt on Geelani because they were frustrated in their attempt to frame him.

You have raised one question again and again in your programmes. You have asked how come we accepted the verdict of the courts in Geelani's case because he was acquitted but not in Afzal's case because he was sentenced to death. This is where the false notion of "objectivity" comes to play.

Let me tell you a few facts. Geelani was represented by the following lawyers:

The first lawyer to reach Geelani in the jail was N D Pancholi, a long time civil liberties activist. At the time of charges Ashok

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Agarwal appeared for Geelani but he withdrew on Geelani's request. During the trial at the Sessions Court (Designated Court under the POTA) Geelani was represented by Seema Gulati and assisted by Vrinda Grover. I was organizing the campaign and helped in getting the Defence Witnesses. Prasant Bhushan filed the case on Geelani's behalf challenging the illegal handcuffing of the accused. Nikkhil Nayar appeared on behalf of Geelani and the Defence Committee for several related cases in the Supreme Court including a petition against Zee TV and another against the Shiv Sena when it ransacked Ram Jethmalani's office in Bombay when he announced that he would defend Geelani. Rajeev Dhawan, senior counsel appeared on behalf of Geelani in a petition challenging the legality of the interception, and Harish Salve, senior counsel appeared on behalf of the Defence Committee in the petition against the Shiv Sena.

From the stage of appeal Geelani was defended by Ram Jethmalani, senior counsel and member of the Rajya Sabha, assisted by Kamini Jaiswal, Arvind Nigam and myself (all of us with more than 20 years of practice). In addition, I asked for and got substantial help from Sara Hossein and a team of lawyers of Interights. All the lawyers appeared pro bono except for Seema Gulati.

I do not know if you realize how many hours of work conscientious and good lawyers put into a case. Despite the fact that Mr Jethmalani had more than six decades of experience he would be preparing for Geelani's case from six in the morning and calling Kamini and me by eight. We would work till it was time to go to Court and return by four in the evening and begin working till late in the night. And at least on two occasions I remember Mr Jethmalani asking Kamini and me to do research on some point by the next morning! He also demanded cases from USA, Canada and UK. And this is in a case which he always called 'a case of no evidence'.

In addition to the case in court we had a campaign for his acquittal in which the Delhi University teachers played an active role, supported by teachers from other universities. And then we had an All India Defence Committee for S A R Geelani with Prof

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Rajni Kothari, a political scientist with an international reputation, as Chairman. The other members of the Committee were: Surendra Mohan, a veteran socialist leader; Prabhash Joshi, former editor of *Jan Satta*; Y P Chhibber of the PUCL; then there were Sandeep Pandey and Aruna Roy, both of them Magsaysay awardees; Babu Mathew, former Registrar of the National Law School at Bangalore; Sanjay Kak (documentary film maker) and Arundhati Roy (a Booker Prize winning writer); Syeda Hamid who subsequently joined the Planning Commission; Kumar Sanjay Singh who was Geelani's close friend and me.

The most important contribution made by the Defence Committee was to help Geelani get expert witnesses. No witness would have testified in such a case if they did not have the protection of the Committee. The daily work of the Committee was done by a small group of young men and women who worked on the Geelani campaign without thought of their own personal careers and comforts: Rona Wilson, Jatinder Singh (both active in the Democratic Students Union, Jawaharlal Nehru University), Vinod K Jose (winner of the prestigious 'The Hindu Award for Young Journalists' and at present a student of Jamia Millia University), R S Mayori, a Naga human rights activist and at the time a student of the Indira Gandhi National Open University, Bismillah, a student of Delhi University and brother of Geelani. This was the group which did the press releases, typing, running the website and showing our exhibition all over India. They were the heart and soul of the campaign. We all put our lives on hold for three years so that we could put in our full time into the campaign.

We had more than 10,000 post cards sent to National Human Rights Commission and Home Ministry; we stuck more than 10,000 Urdu and English posters in Delhi and Kashmir and we distributed 7,000 copies of four pamphlets. We sent appeals to Members of Parliament, to eminent citizens including former judges. In fact, former Chief Justice of India Y P Chandrachud replied expressing his solidarity for our campaign. There were signature campaigns on different occasions. International human rights organizations helped us and Amnesty International even wrote an Open Letter to the Law Minister expressing their concern about the negative role the media was playing.

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Remember, Geelani was acquitted only after he had been sentenced to death despite the fact that there was no evidence against him.

The Case Against Afzal

In contrast, Afzal had no one to campaign for him. He did not even have a lawyer representing him at the time of the trial in the Sessions Court. The Court appointed Neeraj Bansal as amicus curiae. The amicus curiae's primary duty is to the court and not to his client.

If you look at Afzal's case you will see there is no direct evidence against him. He was not involved in the actual killing or even injuring any one. He was acquitted of the charges of belonging to any terrorist organization. None of the 80 witnesses even alleged that he belonged to any terrorist organization or gang. Why doesn't the media ever quote that from the judgements of all three courts? The phone calls that he is supposed to have made to the masterminds have not been proved because there is no proof of the ownership or the contents of the calls. There is nothing to link Afzal to the laptop.

If there had been people to defend Afzal so many facts would have come out. After we began our campaign several journalists did try and do independent research into various facets of the case against Afzal. One senior journalist read up the Prosecution evidence on the laptop which was supposed to have been recovered from Shaukat's truck and a crucial link to prove the conspiracy. The journalist found a "stunning anomaly", which is:

> According to the police the laptop seized from Afzal... who is going to be hanged... had an operating system in July 2000. Operating system in the software that makes a machine operate or function ... Police expert also said this operating system was supplied by the manufacturer (Compaq) when it was sold. So it was sold in July 2000 or therabouts. And that it was sold in Saudi Arabia.
>
> But I found out from Compaq now a part of Hewlett Packard that this particular machine was imported to Bangalore in March 2001 and sold only in April/May 2001.

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He was excited by his findings but his editor refused to publish it. The journalist resigned and sent me his e-mail correspondence with the computer company. I reproduce it below:

Journalist: We are trying to trace the original buyer of a compaq presario laptop.

We want to know: who bought it, when and from which city/ dealer?

The details are:

Compaq Presario 1400, model 14x1442,

Serial Number: 1v12jcz2t04w

Operating System Product Key: t27hq-6xqw3-yvbpg-jw8fr-v4x6d

We are doing a crime story wherein the details of a Compaq Presario laptop are required. We know that this laptop was bought in India and that its warranty expired on 13.05.2002. Please help us with some further information: who bought the machine, when and city of purchase.

Details of the laptop:

Compaq Presario 1400, model 14x1442,

Serial Number: 1v12jcz2t04w

Operating System Product Key: t27hq-6xqw3-yvbpg-jw8fr-v4x6d

The story has nothing to do with Compaq or HP. And if required we would keep the source of information confidential. I hope you would help us with this information, which could help us crack the story.

Gul Raj: Since our products are sold only through channel partners, our service support database would carry only those customers who had approached for support issues. My service team is not sure whether this particular laptop would have come to our service centre for repairs. They are doing a detailed check on this and we shall revert to you by Tuesday on this.

Best regards,

Gul Raj.

Journalist: We hope you would be able to give us the name of the person/organization that bought the laptop. Our hope rests on the fact that we were able to find out the country of purchase and date of expiry of warranty. Since it was purchased in India, we presume there would be some information as to which dealer sold it and to whom. Thanks for your interest and looking forward to the final good news.

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Gul Raj: We've not been able to get the details from our servicing division – We are checking out from other internal sources.

This looks a bit difficult since the warranty expired more than three years back, but *we're* trying our best – Shall keep you posted on the same.

Regards,

Gul Raj.

Journalist: Does it mean that Compaq, now of course, HP, does not know who sold its wares when and where? So, does it mean that any one can claim warranty or alternatively nobody can? Is it something akin to the grey market? It is a very important story and I still hope you would help us. Suppose a major cyber crime was committed using a machine, whose serial number, date of expiry or warranty and country of purchase I have, wouldn't the company help in identifying the person who bought the machine? Or would it simply wash its hands off citing the date of expiry of warranty. Only you can help us. We are a responsible news magazine and we are seeking this information in public interest. Please do help us.

Gul Raj: We definitely would like to help you in trying the owner of this laptop – However, the constraint is that we do not sell our products directly to end-consumers. The sales of the products are done to Distributors who sell them to resellers / sub-distributors and retail points. Hence, it is not possible for us to keep a track of end-consumers.

To ensure servicing / warranty support, we maintain a central database of all products manufactured with their serial numbers – When an end-consumer brings a machine for servicing at any of our service-counters, a check is done by the service center of the serial number of the machine with the database and on that basis, servicing / warranty support is provided.

We have done a thorough check-up with our servicing division to track the service support on this machine – However, this machine has not been brought to our service centers for support – hence, there are no details available with us of the end-consumer of this laptop.

We would like to provide all possible support to you on this and if you desire, we could flag this serial number in our database to track the machine as and when it is brought to any of our service centers for support.

Regards,

Gul Raj.

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Journalist: I have a supplementary query: The operating system (MS Windows ME) for the laptop was supplied by Compaq as part of the OEM (original equipment manufacturer) package.

1. In that case is it possible to get more information about the buyer by tracking the product key of the operating system: T27HQ-6XQW3-YVBPG-JW8FR-V4X6D?
2. Does the company, Compaq or now HP, keep any record of the operating system that it sells along with the hardware?
3. Does the product key number of the operating system tally with the hardware serial number — IV12JCZ2T04W?

Also I want to know whether anyone (i.e. a retailer or a hardware of software specialist) other than the company can correctly give out the country of purchase or any such detail by just examining the machine. That is, I have a machine and just by examining it would a specialist be able to say for sure where it was manufactured, where it was sold, when it was sold etc. I assure you that this would be the last request from me and I won't trouble you any further. Hope you understand that I am only doing my job. Sorry, to have bothered you so much and expecting an early reply.

Gul Raj: I have checked out internally – The laptop model was launched in India – The laptops would get shipped to the Compaq depot in Bangalore and then invoiced to our distributors as discussed with you during our meeting.

As mentioned to you earlier, we do not keep a track of the end-customers through the serial number since we do not sell directly to the end-customer – Hence, even the product key of the operating system would not enable us to locate the buyer of this particular laptop.

Regards,

Gul Raj.

Journalist: Thank you for your telephone call this afternoon confirming that the laptop was imported by Compaq in March 2001, that it could have been sold some time in April/May and that the place of import was Bangalore. I forgot to ask you whether this means that my information about the date of expiry of warranty (13.5.2002) is correct.

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Will NDTV expose this anomaly?

Unfortunately, TV channels seem to be more interested in prosecuting Afzal rather than defending him.

On November 27, 2006 the CNN/IBN had a programme called "Decoding Afzal". They claimed they had done a "sting" operation in which Aijaz accuses his younger brother Afzal of being a terrorist. They also interviewed the STF officer, Devinder Singh, DSP admitting that he tortured Afzal but denying that he took money from Afzal's family for releasing him.

It was not much of a sting operation because only a few days earlier Aijaz had made such statements in full view of the media. I am sure your cameraman recorded the scene outside the Tihar Jail on October 3, 2006, the day Afzal's family which included his mother, Ayesha begum, his wife Tabassum, his son Ghalib, his father-in-law and his older brother, Aijaz went to meet him for what could have been the last time. They came out of the jail gates and right in front of the entire media Aijaz created a huge scene, tearing his shirt and shouting that Afzal was being used to raise money by his supporters which included Geelani and me. Some men standing near him were seen prompting him. Only one paper reported the scene.

CNN/IBN does not even refer to the history of violence of STF camps and it is not even mentioned except for a statement by Yasin Malik in a panel discussion when the Kashmiri leader tells the viewers that the DSP has an unsavoury reputation. If CNN/IBN had any commitment to journalistic ethics they would have told the viewers the details of the torture that Afzal was subjected to. They would have also told the viewers that Mufti Sayeed and his People's Democratic Party had made a solemn pledge to disband the Special Task Force, investigate deaths in custody, and look into cases of those held without charges and offer rehabilitation for victims of violence. They would have told their viewers that the Human Rights Watch/Asia Watch had brought out a 49-page report entitled "India's Secret Army in Kashmir: New Patterns of abuse emerge in the Conflict" in which they had called for the suspension of sale of military hardware and cancellation of all programmes of Military co-operation with India till India disarms all state-sponsored paramilitary groups operating in Kashmir.

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If we look at the timing of the CNN/IBN programme it is also very interesting. Afzal told the Sessions Court in 2002 about the role of the STF camp in the conspiracy to attack the Parliament. His statement was not reported either by the print or the electronic media. Afzal had filed an additional affidavit in the High Court which recorded the details of his torture at the hands of the STF. He had mentioned the role of Devinder Singh, DSP. That was in February 2003 but the media did not carry any reports of his story. Then in 2004 Afzal's wife told the same story in her Appeal published in *The Kashmir Times* and reproduced in *The Asian Age*. There was no denial by the STF and none of the other newspapers, magazines or TV channels thought it was news.

Then after the date and time of Afzal's execution was announced the Society for Protection of Detainees and Prisoners' Rights (SPDPR) published a pamphlet called "Hanging Afzal Would Be a Stigma on Indian Democracy: Afzal's Story in his Words". The pamphlet was released to the media at a press conference in October 2006. The pamphlet contained three letters written by Afzal from the jail (in his own handwriting) and Tabassum's Appeal. One of those letters written to Sushil Kumar, senior counsel, described the details of the violence he had suffered at the hands of the STF and also their role in the Parliament attack.

It is only after the release of that pamphlet, when the public for the first time gets an opportunity to listen to Afzal's story that the media thinks of carrying a story about the STF. But it is not to expose STF but to defend it! In the CNN/IBN story, the violence and corruption of the STF is made invisible.

Tehelka has now come out with a cover story "The Selling of Afzal Guru", in their issue of February 3, 2007. *Tehelka's* reporters, Mihir Srivastava and Harinder Baweja exposed the fact how Afzal's elder brother Aijaz and Shaukat's brother Yasir had collected money in Afzal's name and now Aijaz had his own bunglow in Baramulla and a new car. Aijaz told *Tehelka* that he had not once visited Afzal in the six years that he has been in jail because he hated his younger brother.

Tabassum and Afzal did not expose Aijaz out of respect for an elder brother. I told you they are people with a sense of honour. When I met Afzal in jail he apologized for his brother.

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Even now the full story has not come out. I hope journalists like Mihir will bring out more facts and expose the extent of injustice done to Mohammad Afzal and to his wife.

So many facts need to be put on record. Let me tell you how sinister these intelligence agencies can be. Just a few days after Afzal's date of execution was announced a team from the International Red Cross went to meet Afzal. They have a right to meet Kashmiri prisoners under a special memorandum of understanding with the Government of India. Soon after this the SPDPR released its pamphlets containing Afzal's letters, written from the jail. The pamphlet was released at a media conference and so the facts relating to the STF came out in the public domain. It was after that, the Red Cross was denied all access to him.

Afzal was put into solitary confinement and denied even half an hour of walk in the winter sun. His request to meet his fellow Kashmiri prisoners on the occasion of Eid (which could have been his last) was denied. And this was the time when Aijaz suddenly started meeting his younger brother. All these years he had not bothered to meet him. Aijaz even came down with his family and met Afzal. Each visit was with the sole intention of putting pressure on his younger brother to retract his allegations against the STF. Aijaz told Afzal that he will soon be hanged so what difference does it make if he retracted his statement at least that could save his family from harassment.

When Afzal's family had come from Kashmir on hearing the date for his execution was fixed the SPDPR had requested some friends to help them put the family in a hotel. In the course of those few days they were in Delhi we had to find them three different lodging because each time the intelligence agencies would reach the hotel and make the management vacate the family. Only Aijaz was comfortably living in a lodge, even ordering his dinner over the phone.

I believe the real story is about how desperately the intelligence agencies want to hang Afzal.

It occurred to me that we were successful in our campaign for Geelani precisely because the mainstream media did not cover our campaign. It simply ignored it. In Afzal's case I notice that the moment we make any significant gain in our campaign intelligence

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agencies plant stories designed to undermine the campaign. And they are getting more and more vicious and desperate.

Just a few days ago the media broke the story about the false encounters in Kashmir in which a special police investigating team arrested Hans Raj Parihar, Senior Superintendent of Police, Gunderbal, and Bahadur Ram, DSP (Operations) on the charge of killing innocent civilians. The story revealed how these officers had framed an employee of the SOG and killed him, claiming that he was a Pakistani terrorist belonging to the Lashkar-e-Toiba. No sooner had the story come out we got news of the police arresting four Jaish terrorists in Delhi. I do not know who the people arrested are but I can say the attempt to link the incident with Afzal has a false note.

In the middle of the story about the arrest of the terrorists there is a paragraph totally unconnected. The paragraph reads: "The recovery and arrests are important in the light of some letters having surfaced in New Delhi on Saturday threatening to blow up the capital if Afzal Guru, the convict in the Parliament attack case, was hanged." No source is cited. I am sure you will remember once before mysteriously a letter was found at an airport announcing that there was a terrorist threat to airports in south India. While the TV channels created a moral panic the Intelligence Bureau distanced itself by giving a statemnt that the threat was not serious.

In the West there are serious debates about the complicity of the media in the war against terrorism; but in India media persons have not even started raising questions about their own complicity in India's war against terrorism.

I know you are not responsible for all that the media does. But I believe in some way each of us bears some responsibility of what is done in our name whether it is done in the name of our country or in the name of our profession. I myself felt very angry and ashamed of what was done to Afzal by his lawyers and that prompted me to expose some of the injustice done to him and made me a target of their ire. Indira Jaising, Senior Counsel was also moved to look at the court records and move the Supreme Court with a curative petition precisely because she felt responsible.

All I ask is that lawyers and journalists remain faithful to the ethics of our respective professions. And that is all I am asking of

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you. This is an appeal that some of the injustice done to Afzal be rectified by balanced, fair and just reporting. Journalists like Anjali Mody, Basharat Peer, Rajesh Ahuja, Siddhartha Vardharajan, Anil Chamaria and journals like *Filhal* and *Samyantar* helped bring justice to Geelani. I am writing to you to take a stand which could make a difference to Afzal.

The media have been unfair to Mohammad Afzal. The media has blacked out the violence and injustice done to him. It has jeopardized our campaign for justice for Afzal by broadcasting illegal, inadmissible evidence given by corrupt and communal policemen and intelligence agencies who have a vested interest in getting Afzal hanged. The media has aroused communal passions instead of informing the public about important issues raised; above all the media has endorsed the politics of hatred instead of trying to create a climate of goodwill.

Under these circumstances justice demands that media should help build a consensus for his pardon, not merely commuting his death sentence to life imprisonment, as a token of our goodwill to the Kashmiri people.

I am sure you will ask me what I would say to the families of those martyrs who lost their lives saving Indian democracy on December 13. I would beg them to take back their awards, I would honour them and ask them to support our campaign because I am sure they would never support that a man be subjected to the kind of violence that Afzal has been a victim of. I would arrange for Tabassum and Ghalib to meet those families and I know from the meeting they will realize that the love of our country demands forgiveness and compassion. That is in the best tradition of our country. Just as many of the victims of World Trade Center who lost their dear ones have joined the anti-war movement against senseless wars and revenge in the best traditions of their country.

I still hope to get a suitable response.

Yours sincerely

Nandita Haksar

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Details of Cross Examination submitted by Afzal in his petition to the President

Prosecution witness	Designation	Cross examination by Neeraj Bansal	Cross examination by Afzal
PW1 GL Mehta	SHO Parliament St PS	Nil	Nil
PW2 Sanjiv Kumar	SI, Parliament St PS	Nil	Nil
PW3 Rajinder Singh	SI, President's House security	Nil	Nil
PW4 Yog Raj Dogra	SI, IGI Airport	Nil	Nil
PW5 ASI Jeet Ram	Security, Delhi Police	Nil	Nil
PW6 Constable Rajesh Kumar	Photographer	Nil	Nil
PW7 Jasveer	HC, Parliament Street PS	Nil	Nil
PW8 H. S. Ashwani Kumar	HC Parliament Street PS	Nil	Nil
PW9 Sukhbir Singh	HC Parliament Street PS	Nil	Nil
PW10 Jagvir Singh	HC Parliament Street PS	Nil	Nil
PW11 G. L. Meena	Deputy Secretary, Home	Nil	Nil
PW12 T. N. Mohan	DCP, Headquarters	Nil	Nil
PW13 Dushyant Singh	Deputy Chief Security Officer, Ministry of Home Affairs	Nil	Nil
PW14 H. C. Malkit Singh	Parliament Street PS	Nil	Nil
PW15 Mathew George	Executive, Infrastructure Leasing and Financial Services Ltd.	Nil	Nil
PW16 Dheeraj Singh Peon,	Infrastructure Leasing and Financial Services Ltd.	Nil	Nil
PW17 Satbir Singh	Shopkeeper	Yes	Nil
PW18 Raghbir Singh	Motor mechanic	Yes	Nil
PW19 Harish Chander Jaggi	Proprietor, Jaggi motors	Yes	Nil
PW20 Harpal Singh	Proprietor, Lucky motors		Afzal admits going to the shop of witness

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Prosecution witness	Designation	Cross examination by Neeraj Bansal	Cross examination by Afzal
PW21 Constable Mahipal Singh	CRPF	Nil	Nil
PW22 R. S. Verma	Director, SFSL, Chandigarh	Nil	Nil
PW23 P. R. Nehra	Principle Scientific Officer, CFSL, CBI	Nil	Nil
PW24 A. Dey	Senior Scietific Officer, Asst. Chemical Examiner, CFSL, CBI	Nil	Nil
PW25 Jasvinder Singh	Computer Centre (Xansa Webcity)	Nil	Nil
PW26 Jibharam	Mechanic	Yes	Nil
PW27 Salim	Junk Dealer	Nil	Nil
PW28 Babu Khan	Barber	Nil	Nil
PW29 Sushil Kumar	Gupta Auto Deals	Nil	Yes (Only one suggestion given)
PW30 SI Mahesh Kumar	Draftsman, Crime Branch, PHQ	Nil	Nil
PW31 Bal Raj	Property Dealer	Yes (Inadequate)	Nil
PW32 Jagdish Lal	Owner of Indira Vihar house	Yes	Yes
PW33 Davinder Pal Kapoor	Property Dealer	Yes	Nil
PW34 Subhash Chand Malhotra	Owner of A-97 Gandhi Vihar	Yes (Inadequate)	Nil
PW35 Capt. P. K. Guharay	Security Manager, Airtel	Nil	Nil
PW36 Maj. A. R. Satish	Sterling Cellular Ltd.	Nil	Nil
PW37 Prem Chand	Hostel owner, Christian Colony	Yes (One suggestion only)	Nil
PW38 Rajneesh Kumar	Runs STD Booth, Christian Colony	Nil	Nil
PW39 Naresh Gulati	Landlord of SAR Geelani	Nil	Nil
PW40 Anil Kumar	Chemical Business	Yes (Inadequate)	Nil
PW41 Ajay Kumar	Salesman, Dry fruits shop	Yes	Nil
PW42 Ramesh Adwani	Shopkeeper, Dyes and Colours	Yes (Inadequate)	Nil

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Prosecution witness	Designation	Cross examination by Neeraj Bansal	Cross examination by Afzal
PW43 Sunil Kumar Gupta	Shopkeeper, Electrical Gadgets	Yes	Nil
PW 44 Sandeep Chaudhary	Shopkeeper, Mobile Phones	Yes	Nil
PW45 Tejpal Kharbanda	Landlord, Shaukat (co-accused)	Nil	Nil
PW46 Usha Kharbanda	Wife of PW45	Nil	Nil
PW47 Dr. Upender Kishore	Senior Resident, Lady Harding Medical College	Nil	Nil
PW48 Dr. Rajinder Singh	Expert, CFSL, CBI	Nil	Nil
PW49 Kamal Kishore Behal	Shopkeeper, Mobile Phones	Yes	Nil
PW50 Sanjay Mani	Manager, Admin, Xansa India Ltd.	Nil	Nil
PW51 Dharampal	Clerk, District Transport Office, Faridabad	Nil	Nil
PW52 Charan Singh	Clerk, Registering Authority, Motor Vehicle, Faridabad	Nil	Nil
PW53 Mahesh Chand	LDC, MLO, HQ	Nil	Nil
PW54 Anil Ahuja	UDC, Transport Authority	Nil	Nil
PW55 Sham Singh	Sub-Inspector, Security, Vice-President	Nil	Nil
PW56 Constable Ranjit Kumar	Special Branch, Lodhi Road	Nil	Nil
PW57 SI Pawan Kumar	Special Cell, Lodhi Road	Nil	Nil
PW58 SI Neeraj Paliwal	CRPF, SDG, VVIP Security	Nil	Nil
PW59 N. K. Aggarwal	Senior Scientific Officer, CFSL, CBI	Nil	Nil
PW60 Ashok Chand	DCP, Special Cell	Yes	Yes
PW61 Abdul Haq Butt	Deputy SP, SDPO, M. R. Ganj, Srinagar	Yes (Inadequate)	Nil
PW62 HC Mohammad Akbar	Parampura PS, Srinagar	Yes (One suggestion only)	Nil

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Prosecution witness	Designation	Cross examination by Neeraj Bansal	Cross examination by Afzal
PW63 V. K. Maheshwari	Addl. Chief Metropolitan Magistrate, Patiala House	Yes (Inadequate)	Nil
PW64 SI Hardaya Bhushan	Special Cell, Lodhi Road	Yes	Nil
PW65 SI Sharad Kohli	Special Cell, Lodhi Road	Nil	Nil
PW66 Mohan Chand Sharma	Special Cell, Lodhi Road	Nil	Nil
PW67 SI Bidrish Dutt	Special Cell, Lodhi Road	Nil	Nil
PW68 Dr. S. K. Jain	Asst. Director, CFSL, Chandigarh	Nil	Nil
PW69 Inspector Santhosh Singh	CRPF	Nil	Nil
PW70 SI Harinder Singh	Special Cell, Lodhi Road	Nil	Nil
PW71 Rashid	Transporter	Nil	Nil
PW72 Vimal Kant	Computer Engineer	Nil	Nil
PW73 Krishnan A. Sastri	Bureau of Police Research and Development, Ministry of Home Affairs, Hyderabad	Nil	Nil
PW74 Constable Shambir Singh	CRPF	Nil	Nil
PW75 K. Satyamurthy	Officer Commanding, BDU, NSG	Nil	Nil
PW76 Inspector H. S. Gill	Special Cell, Lodhi Road	Yes but Inadequate	Nil
PW77 SI Lalit Mohan	Special Cell, Lodhi Road	Yes	Nil
PW78 Manjual Kapur	Manager, Siemen, Gurgaon	Nil	Nil
PW79 M. Krishna	Ministry of Home Affairs, Hyderabad	Nil	Nil
PW80 ACP Rajbir Singh	Investigating Officer, Special Cell, Lodhi Road	Yes but very inadequate	Nil

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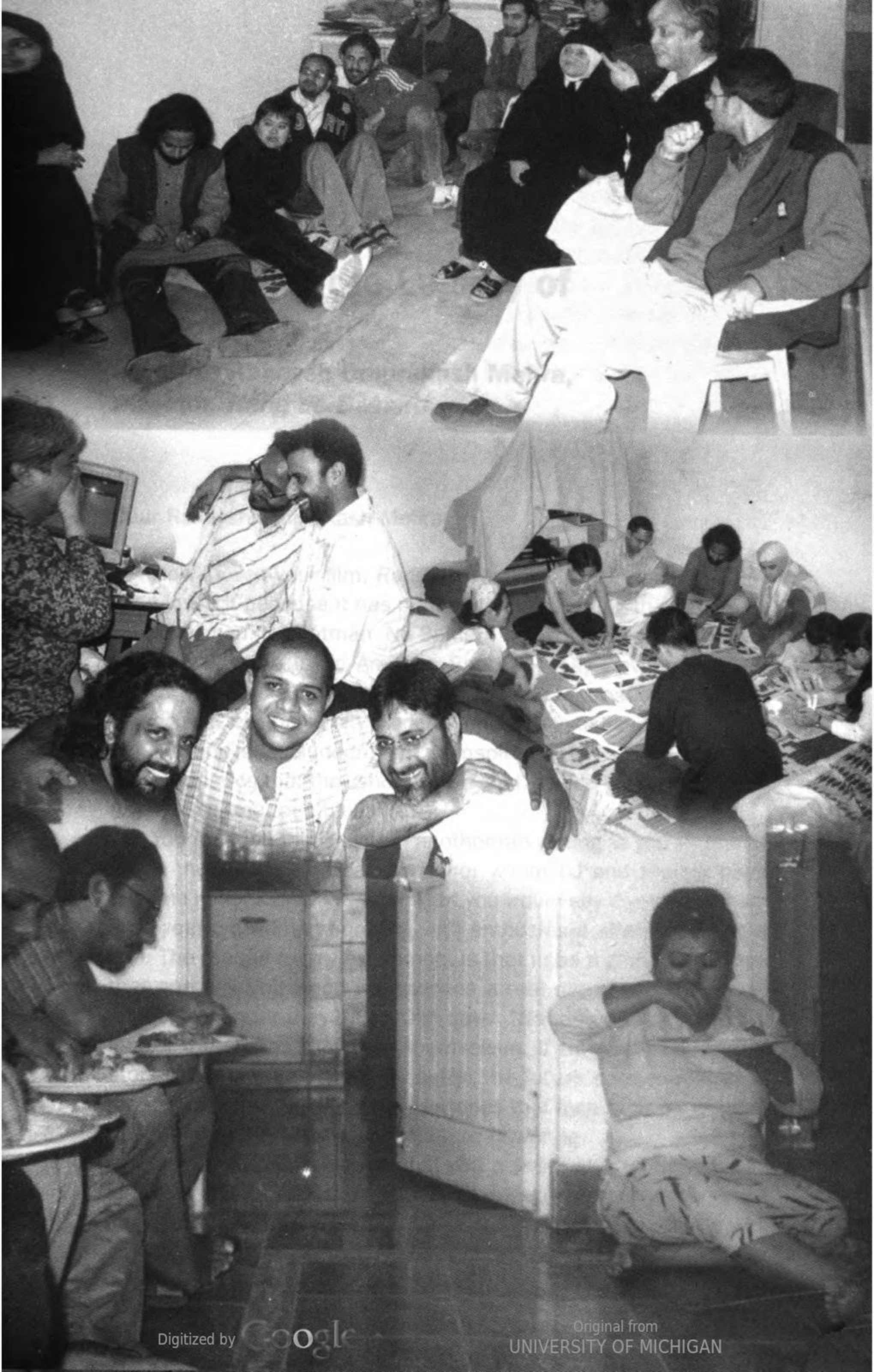

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Moments in our campaign with Geelani, his mother and family.

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Reclaiming the Legacy of Bhagat Singh

Letter to Rakeysh Omprakash Mehra, Director, *Rang de Basanti*

Dear Rakeysh Omprakash Mehra,

How I loved your film, *Rang de Basanti*!

I loved it because it has no macho man fighting the bad guys. No Superman. No Batman. No Spiderman. Not even a Shaktiman. Best of all there is no Amitabh Bacchan, Ajay Devgan or Sunil Shetty playing the patriotic army officer. It is really such fun to see a bunch of Delhi University students who love their beer, loud music, dancing and jokes suddenly get so inspired by the stories of Indian revolutionaries that they shoot a corrupt Defence Minister. It gives us all such vicarious pleasure!

You must be thinking I am another fan writing to you — one of those thousands of urban youth for whom DJ and friends have become minor icons. I wonder what you would say if you knew I am a 52-year old woman bubbling with enthusiasm after seeing your film. The reason for my excitement is that I see a glimmer of hope that one day Bollywood will produce a real story. Stories are so important, aren't they? Ben Okri says: "Nations and peoples are largely the stories they feed themselves. If they tell themselves stories that are lies, they will suffer the future consequences of those lies. If they tell themselves stories that face their own truths, they will free their histories for future flowering."

I am writing this letter to tell you a story which I believe can lead to a real flowering of the creative energies of our youth. And it is a true story. It is a story about a group of young students who

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fought against all odds to prove the innocence of a man even though the entire country believed that he was guilty of the heinous crime of attacking the Parliament. All the characters are real and living. Every incident is true and it all happened, is still happening.

Incidentally, it was strange that your film began with a disclaimer that "all names and incidents portrayed in this film are fictitious. Any resemblance to any person living or dead is purely coincidental." Surely you did not want your viewers to think that Bhagat Singh, Rajguru, Chandrashekhar Azad, Ashfaqullah and Ram Prasad Bismil were not real? And, that the agitation against Simon Commission did not take place? More than half your film has scenes in sepia from the Indian freedom struggle, Jallianwala massacre, shooting of Saunders, hanging of Bhagat Singh, Rajguru and Sukhdev, the death of Chandrashekhar Azad, and the oath taking of Indian revolutionaries at the Ferozeshah Kotla. Would you want your viewers to believe that none of this happened? A figment of your imagination like Hira in *Mangal Pandey*?

I realized that the disclaimer is to be taken seriously after I read that Justice A K Sikri of the Delhi High Court ordered the producer of *'Mangal Pandey'* to introduce a scroll at the end of his film to clarify that the character, Hira, a sex worker, was fictional and not related to Mangal Pandey in any way. This was a direction given by the Judge in a petition filed by the great Indian revolutionary's descendants whose sentiments were hurt by such a portrayal.

I wonder whose sentiments are sought to be assuaged by the disclaimer in your film. I did read somewhere that the disclaimer was put at the instance of the super censors who passed the film. But even that is a bit strange. I wonder what they wanted us to think was fictitious? The entire country identified Ajay Rathore of your film with the 29-year-old Flight Lt Abhijit Gadgil who died in a MiG crash on September 17, 2001. I do not know why you have distorted the story of how Abhijit's mother fought to prove that the crash in which he died was due to bad spare parts and not because her son was a weak pilot as alleged by the Air Force. The mother of Ajay Rathore sits on a dharna and protests, gets injured and lies in coma in a hospital for the rest of the film. The real mother of

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Abhijit, Kavita Gadgil, is still fighting for air safety. And her husband Wing Commander (retd) Anil Gadgil is supporting her. I believe Kavitaji is angry with your portrayal of her. And I understand and share her anger. You made a real life woman with guts and perseverance into a passive comatose patient.

Before I begin telling you my story, can I ask you something? I have wanted to ask this question to everyone at Bollywood? Why have you for so long submitted yourselves to censorship? Why is there no movement against the increasing policing of our culture? I was really shocked to read that Sharmila Tagore the head of the censor board actually referred your film to the Defence Ministry and the super censors who finally passed *Rang de Basanti* were none other than our present Defence Minister, Pranab Mukherjee and three Chiefs of Defence forces, Air Marshal S P Tyagi, Gen JJ Singh and Admiral Arun Prakash. It is indeed a strange democracy that we live in, when films have to be passed by the three Chiefs of the Armed forces and the Defence Minister! So much for the protection of our right to freedom of speech and expression in democratic India!

News reports tell us that they not only "suggested" you put in that bit about all the characters being fictitious but they also told you to cut out the roll of honours of pilots who died in what have been called "flying coffins" or the MiGs. It is a strange objection. I wonder why they would want to suppress the names of those who died for the country.

It is all very strange, this nationalism of ours. The official nation wants to obliterate from our collective national memory the name of Abhijit and other pilots and even of Indian revolutionaries who fought for our freedom from colonialism. Has the country not forgotten the names of those who saved the Indian Parliament on the fateful day of December 13, 2001? Every year the MPs solemnly pay homage to those who laid down their lives trying to save them but no one asks whether the promised compensation to their families ever reached the wives and children who live with their loss every day.

The story of Prem Yadav or Kamleshwari who fought so bravely against the attackers and died in the process could be a part of the story I want to tell you. The trouble is that my story has so

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many stories, each one connected to another. Each story illustrates a vital aspect of the corruption of our democracy and our nationalism. My story is similar to the story in *Rang de Basanti*. It is also about a small group of fun loving students who came together to fight corruption. But the corruption they fight is far more insidious. This group of fun-loving students living in Delhi also felt outraged and would have wanted to kill a few corrupt people, but they knew they were up against a system not an individual who was corrupt.

Are you interested in listening to my story? I promise you that it has all the ingredients of a Bollywood blockbuster with Paki-bashing nationalists, Kashmiri terrorists being brutally tortured by dehumanized policemen, courtroom drama and chilling scenes of corruption and violence inside the Tihar Jail, comparable to Abu Ghraib. The story is about the corruption of policemen and politicians but it also exposes the corruption in the media, judiciary, lawyers and political parties, not just individual politicians.

I believe that my story is about a life and death battle for Indian democracy. Some people may warn you that I am the anti-nationalist who defended a man accused of attacking the Parliament.

I realize I have not introduced myself to you. It is true that I was a part of the defence team which campaigned for the acquittal of Sayed Abdul Rahman Geelani, the Delhi University teacher accused in the Parliament attack case. The reason I joined the campaign was because I felt that defending him would be defending Indian democracy. You may well laugh. But I felt then, and I feel now, that to defend a citizen's right to fair trial is far more patriotic than defending corrupt policemen who are involved in framing innocent citizens and even killing them in fake encounters.

I want to assure you Rakeyshji that I loved *Rang de Basanti* only because I am moved by nationalism. I love my country very deeply and it is this love that links me with my fellow citizens.

But I do not want to tell you my story or the part I played in the campaign. I want to tell you the story of the group of young men and women who were the heart and soul of that campaign. Through their stories I think we could raise many questions about the meaning and content of Indian democracy and Indian secularism.

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The problem is that, I know the story I am about to tell you can never be told by Bollywood because it would never get past the Censor Board let alone the super censors. So, what is the point of my telling you a useless story from which you cannot make any money? The reason I want to tell you the story is that perhaps after the success of *Rang de Basanti* you may feel like telling another kind of story, a story that goes into the heart of the problems facing our country. You may feel like taking on the challenge of telling a real story and fighting the censorship imposed on our freedom of expression.

It has been said that Bollywood's interest in patriotism is purely commercial. I know you spent Rs 30 crores on *Rang de Basanti*. And it has earned Rs 22.8 crores in the first four days of its release. But I like to believe you are interested in something a little more than just profits. The story I want to tell will "sell" but you will have to make a long journey, a difficult journey to be able to tell it truthfully. It may even change your life as it has done mine.

Now that the time has come to begin telling my story I do not know where I should start. In a way it begins in December 2001, just two months after Abhijit Gadgil died in the MiG crash.

We could begin by showing the Indo-Pakistan border and the troops build up. There were one million troops facing each other at the end of 2001. We could show scenes of the Indian army towing heavy artillery and also laying mines along the 1,800-mile long India-Pakistan border, affecting some 173,000 acres of land along the Line of Control in Kashmir and some 27,000 hectares including 350 villages in Punjab. Did you know that this was the biggest mine-laying operation in the world? More than 150 Indian soldiers died because of accidental landmine explosions. India and Pakistan are respectively the fifth and sixth largest landmine "powers" in the world with an estimated stockpile of 11 million landmines between them!

We could show world leaders expressing fear that India and Pakistan were on the brink of another war, and this time it could be even a nuclear war. And then we could make a dramatic cut to the Indian Home Minister making a statement in the Indian Parliament:

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> Last week's attack on Parliament is undoubtedly the most audacious, and also the most alarming, act of terrorism in the nearly two-decades-long history of Pakistan-sponsored terrorism in India. This time the terrorists and their mentors across the border had the temerity to try to wipe out the entire political leadership of India, as represented in our multi-party Parliament. Naturally, it is time for all of us in this august House, and all of us in the country, to ponder why the terrorists and their backers tried to raise the stakes so high, particularly at a time when Pakistan is claiming to be a part of the international coalition against terrorism.
>
> The only answer that satisfactorily addresses this query is that Pakistan — itself a product of the indefensible Two-Nation Theory, itself a theocratic State with an extremely tenuous tradition of democracy – is unable to reconcile itself with the reality of a secular, democratic, self-confident and steadily progressing India, whose standing in the international community is getting inexorably higher with the passage of time.
>
> The Prime Minister in his address to the nation on the 13th December, 2001 has declared that the fight against terrorism had reached a decisive phase. The supreme sacrifice made by the security personnel who lost their lives in this incident will not be allowed to go in vain. Those behind the attack on Parliament House should know that the Indian people are united and determined to stamp out terrorism from the country.

As he reads the statement we could show the real scenes of how our Parliament was attacked by five (or was it six?) men, who entered the Parliament building in a white ambassador. There is live footage of the attack, the sound of shooting, shouts of security men running and the bloodied faces of the five terrorists lying dead at Gate No 1, 5 and 9.

Oh dear! Rakeyshji, how very presumptuous of me! How could I dare tell you how to shoot a film. The reason why I started to write this letter to you is because you brought your experience in making advertisement films to *Rang de Basanti* and that is why it was so good. After all the best nationalist films seem to be the ads for Coke!

I must also ask you to forgive me for the way I have begun telling you my story. I, myself, am shocked at the way I began with

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the attack on Parliament. It is beginning to sound like the cine patriotism of *Border*, *Mission Kashmir* or such films. Perhaps I am also being influenced by the jingoism of the Bollywood genre of nationalism. If that was the kind of story I wanted to tell, why would I tell it to you instead of the makers of *Mission Kashmir* or *Maa Tujhe Salaam*. The reason why I liked *Rang de Basanti* is precisely because it was not about the "foreign hand". It is about corruption of our own leaders.

I loved one particular scene in your film. After the shooting of the Defence Minister, the Government responds: "Because of the cowardice of some terrorists the country has lost a priceless jewel. He was a true soldier and a true patriot who sacrificed his life for the country. It is not possible to express in words his contribution to the country," And the TV journalist announced (was it NDTV?) that a foreign hand is suspected behind the killing.

The audience laughed. I did too. I loved the corrupt minister being described as an *'anmol ratna'* (priceless jewel). I immediately thought of the *'anmol ratna'* in my story. He is a police officer of the Special Cell of the Delhi Police, ACP Rajbir Singh.

I do not know how much you know about the Delhi Police's Special Cell. The Cell is supposed to deal with terrorists. Rajbir Singh has quite a reputation for killing people in false encounters (the media describes him as an encounter specialist). Human rights call these fake encounters "extra-judicial killings" and some lay people call them murders. In spite of all these allegations against this officer, there have been no investigations into any of the incidents. One of these incidents was the famous Ansal Plaza case. But that is not strictly speaking part of the story I want to tell you. So, as I said, this police officer has a reputation for being a tough cop who can break into peoples' homes at midnight whisk them away, make illegal arrests, torture and even do illegal land deals on the side. This Officer has been awarded the President's Police Medals for Gallantry by both the BJP government and the Congress party. This *'anmol ratna'* was the investigation officer in the Parliament attack case.

I could actually begin my story with ACP Rajbir Singh standing at the Khalsa College bus stop on Friday, December 14, 2001

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looking very pleased with himself. He was about to arrest a teacher of Delhi University and frame him in the Parliament attack case. But again I am telling the story the wrong way around. Actually, my story begins in 535, Mukherjee Nagar, first floor.

It is morning and Abdul Rahman Geelani wakes up with one thought on his mind. He must go to Chandini Chowk to buy a hearing aid for his mother-in-law and then go to Jama Masjid and get his handwritten PhD thesis typed. It is his only copy written in painstaking Arabic. He looked forward to submitting his thesis. He had to buy the hearing aid on that day since his wife's brother and cousin were going to Kashmir that afternoon and they could take the instrument with them.

Abdul Rahman went by bus and came back by bus. But by the time he returned his brother-in-law had already left for the bus station. He told his wife he would deliver the hearing aid to them at Tis Hazari bus stop after going for Friday prayers at the Mall Road mosque. He promised to be back in time for iftar. Just before he reached the mosque he got a call from his younger brother, Shah Faisal asking him to send the syllabus and prospectus for MBBS. Geelani said he could not send it immediately and would do so after Eid. It was three days before Eid.

Before Geelani reached the mosque he was pulled down from the bus by a man in plainclothes at the Khalsa College bus stop. There were more plainclothes men. None of them identified themselves. They asked him whether he had any hearing difficulty. Abdul Rahman told them that he was going to give the instrument to his brother-in-law at the bus station. The plainclothes men drove down to the Tis Hazari bus stop and arrested Geelani's brother-in-law, Inayat, his cousin, Muzzamil and his younger brother, Bismillah. All three young men were studying in Delhi. The three were taken away to some unknown destination. Geelani was blindfolded and his hands were tied at the back. They took away his money. He had a couple of thousand in his wallet since it was nearing Eid. They gave him a receipt for Rs 700. They took away the hearing aid and his thesis. There is no record for these two items.

Abdul Rahman was taken to a big farm house, graciously furnished and with a beautiful lawn with Ashok trees along the

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driveway. The house had a large verandah with big pillars. It was between these pillars that Abdul Rahman was hung naked and tortured. He was beaten, humiliated and insulted. There were other plainclothes men present. The 'interrogation' consisted of abusing him for being a Kashmiri Muslim and trying to make him give a false confession that he was a party to the conspiracy to attack Parliament.

That night Geelani was thrown into a jeep and taken to the Special Cell police station at Lodhi Road. There he discovered that his wife, daughter and son had also been wrenched out of their home and brought to the police station. His family was made to see his swollen face and marks of torture. They were detained for two days and allowed to leave on December 16th. The children were under shock and could not speak. His wife broke down and cried. Her entire world shattered.

It was really a cold and empty building they returned to. It no longer felt a home. And it was then that Geelani's brother read the newspaper reports. He was shocked. The reports were portraying his brother as the mastermind. The next day was Eid and the family went with some hot food to the police station. Geelani was being interrogated, meaning tortured, so they had to wait outside.

This time when Bismillah left the police station he knew his brother would not be returning for a long time. He was angry with the police and asked Inspector Govind Sharma why they were framing him and portraying him as a criminal. The policeman replied that it was the media that was responsible. He saw the swollen face of his brother, the cuts on his wrists and dry blood on his face. But it was the expression in his eyes that made Bismillah embrace his older brother and weep. Bismillah felt his brother looked defeated. But Geelani was far from defeated. Once his family had been released he felt less pressurized and held on through one more week of pain and humiliation of torture, but refused to give a false confession.

Till December 16, 2001 the country had not heard of Sayed Abdul Rahman Geelani, a 31-year old Delhi University lecturer teaching Arabic in Zakir Hussain College. It was on that day millions of Indians saw his face on the front pages of their newspapers and

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on the TV channels. The headlines screamed that Geelani had confessed to being a part of the conspiracy to attack the Indian Parliament. Some called him the mastermind behind the attack. Overnight millions of Indians read these stories and his photo got imprinted in their minds and hundreds of thousands of citizens condemned him "guilty" of the crime of attacking the symbol of Indian democracy. This was long before even the chargesheet had been filed.

There was no doubt in anyone's mind that he was guilty. After all he was a Kashmiri Muslim, had a beard and taught Arabic. It was no surprise that the anti-terrorist court sentenced him to death. I believe the people who should have been tried on the charge of convicting an innocent man to death is the media — print, electronic and of course Bollywood. For the past decade they have been churning out movies which whip up an anti-Pakistani sentiment, feeding peoples' prejudices, creating an atmosphere of suspicion and hate against Kashmiri Muslims.

The media has justified all manner of brutalities on anyone accused of terrorism in the name of nationalism. They are responsible for creating corrupt, communal and brutalized policemen. The media is full of stories with such policemen as heroes. My story focuses attention on the complicity of the media with the police in framing an innocent man.

Let me continue my story.

On December 20, 2001 ACP Rajbir Singh was busy organizing a media conference inside his police station. He had invited both the print media and the electronic media. He knew the reporters who were coming. He knew they would 'co-operate'. After all, from December 16 to December 23 the media had carried all the stories that the investigating agencies had planted. *Times of India* dated December 17 had a six column headline "DU lecturer was terror plan hub" and *The Hindu* had a report with a headline "Varsity don guided 'fidayeen'". On December 18 *Hindustan Times* had a headline which screamed: "Don lectured on terror in free time" and on the same day *Rashtriya Sahara* was even more dramatic: "*Aligarh se England tak Chhatron mein aatankwaad ke beej bo raha tha Geelani*" (Geelani was sowing the seeds of terrorism among students from Aligarh to England).

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The journalists forgot all their ethics and often did not even bother to quote any source. Editors did not even think of getting the "the other side". And on December 23, 2001 these stories stopped but no one asked why. It is true that Geelani had been sent to Tihar Jail on that day but why were there no more stories? Not a single journalist bothered to look at the court records. The record shows that Geelani did not make any confession. He had been tortured from December 14 to December 22 but the police were not successful in making him give a false confession. The stories that he received calls from Pakistan, that he had met the five terrorists who attacked the Parliament or that they phoned him were all false. Plain lies were planted in the papers by the investigating agencies to make up for the lack of evidence against Geelani.

The records also show that he was the only accused who had a regular mobile connection and he paid his bills through the State Bank of India. He did not use cash cards. In fact no arms, ammunition or even an illegal pamphlet had been recovered from him. Officially his house had not been searched because the police knew there was nothing to be found in his home. By December 17 the Special Cell had Geelani's phone records from October 2001 to December 2001 and it was clear that Geelani had neither received a call nor phoned any of the five persons who attacked the Parliament. He had no calls from Pakistan, Dubai or from any satellite phone. In fact, the police had no evidence that Geelani was in any way involved in the conspiracy so they were desperate. That is why they had the media conference on December 20.

Unfortunately the story I want to tell you does not have a journalist who tried to find out the truth. Almost all the journalists in my story are the villains. These men and women ruthlessly told lies to the public and ran a pernicious campaign to defame an innocent man who was being brutally tortured and in no position to defend himself. And there were no journalists who were exceptions in the crucial first months after his arrest.

Let me go back to the media conference that was organized by ACP Rajbir Singh. That day the Special Cell was even more pleased with itself; they were going to prove to the entire country

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how clever they were at catching terrorists. They had Mohammad Afzal, the main accused in the Parliament attack case giving a statement to the media admitting his guilt. Afzal was seated in a chair with handcuffs and he answered questions put to him by journalists tutored by the police. I have the transcript of the interview by Shams Tahir Khan, the *Aaj Tak* correspondent. He asked Afzal: "Your companion, Gilani had Osma bin Laden's literature with him. Is he the follower of bin Laden?"

On what basis does this journalist ask such a question? There was no record that such a document had been seized from Geelani's home. So, out of the blue why such a query?

Mohammad Afzal replied that Geelani did not know anything about the attack. At that point ACP Rajbir Singh jumped up and shouted at Afzal: "You were told not to mention Geelani." And then the police officer turned to the journalists and requested them not to broadcast or print that line when Afzal says that Geelani was not involved. And the TV channels complied with his wishes.

Rakeyshji, you would be perfectly within your right to ask me how I know all this. I told you right in the beginning that all the events and characters in my story are real. Let me tell you how these facts about the media conference came on record.

A hundred days after the attack on Parliament, *Aaj Tak* decided to broadcast the full text of Afzal's interview. That is how we saw it and decided to send summons to Shams Tahir Khan to give his testimony in court as a Defence Witness. On October 10, 2002 Shams Tahir Khan stood in the witness box in Patiala House's designated POTA court and testified that ACP Rajbir Singh did indeed tell the media not to broadcast that line in which Afzal exonerates Geelani. It was very moving because Shams was obviously scared and he overcame his fear to speak out the truth.

The Special Cell knew that such media trials go against the principles of fair trial. On July 24, 2002 when Ashok Chand, the DCP, Special Cell and direct boss of ACP Rajbir Singh, appeared before the POTA court as Prosecution Witness, he denied any knowledge of the media conference. Let me quote his words: "I am not aware if on 20.12.01, accused Afzal was produced before the media or any other date, he was produced before the media to

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tell media about his role in attack on Parliament." A few days later ACP Rajbir Singh testified in the same court that he did allow the media to interview Afzal with the permission of DCP Ashok Chand.

This was not the only lie that the policemen of the Special Cell told the court. They lied about the time, place and date of Geelani's arrest. They said he was arrested on December 15 outside his house. Even the Sessions Court judge who sentenced Geelani to death did not believe the police version of the arrest. No one bothered to ask about the arrest memos. It was only during the hearing at the High Court that it was discovered that the arrest memos were signed by Bismillah, who was himself under detention. In fact, Bismillah did not know what he was signing since he had been made to sign innumerable blank papers.

Rakeyshji, has your interest been aroused by the courtroom drama? You know that court room scenes sell. But then the story would have to revolve around a lawyer battling in the court to prove the innocence of his/her client and in the process taking on the might of the Indian state. Bollywood, Hollywood and TV serials have glamourized defence lawyers. I myself love to see those movies. I do not deny that there are many sincere defence lawyers and they could be heroes of those films and serials but my story does not have any of them. In fact, my story is mostly about corrupt, greedy and callous lawyers.

Geelani did not have access to any lawyer from the day he was arrested in December 2001 to May 2002 when the chargesheet was filed. It was then that he was visited by Mr N D Pancholi, a civil liberties lawyer. N D Pancholi is one of the kindest human beings I have met. And Geelani felt a certain solace after seeing him. But Pancholi has a busy practice and Geelani needed a lawyer who would do his case full time.

Geelani was depending on his friends and supporters who belonged to the circle of committed civil liberties and human rights activists. Some of them were working in Kashmir and almost all of them knew him personally. He was shocked that they had not tried to send a lawyer to him for so many months. On June 3, 2002, the day charges were framed, his friends brought a human rights lawyer. That lawyer did not take any instructions from Geelani or ever meet

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him. He did not even file a 'vakalatnama' (power of attorney). And when he rose in defence of Geelani he told the POTA judge that even if Geelani had supported the attack on Parliament so what; after all many Sikhs had supported the murder of Mrs Indira Gandhi. It was not a proof of complicity. Geelani was appalled and immediately wrote an application in the court that he had never supported the attack on Parliament and the lawyer had made his irresponsible arguments without any instructions.

It was at this point that one of Geelani's friends sent an e-mail to me asking me to represent Geelani. I knew that if Geelani's innocence had to be proved in a court we had to ensure he got a fair trial. But he would not have a chance of having a fair trial if public opinion demanded revenge. The wall of prejudice, hate and ignorance had to be broken. Remember we were fighting for the acquittal of a Kashmiri Muslim who had been accused of being part of a Pakistan-sponsored terrorist attack on the Indian Parliament. Many lawyers thought that it was anti-national even to demand a fair trial for such a man. Even if they wanted to take up the case they feared the ultra-nationalists of the ruling coalition at the time. The threat of the Hindutva was very real and their ideological poison had seeped into every institution.

The images of burning houses and shops with men, women and children inside; the butchering of human beings presided over by a democratically elected Chief Minister in the world's greatest democracy. The chilling effects of Hindutva could be felt even in far away Goa where I was living when I got the e-mail from Geelani's friend.

The immediate threat of the Hindutva seems to have receded but *Rang de Basanti* reminds us that we are not safe. I really enjoyed the scene in which Lakshman Pande first appears in your film. I loved the way DJ, Aslam and Sukhi stare at him, without fear and ready to fight him to the end. It was really a very powerful scene. But as the story unfolds in *Rang de Basanti* your portrayal of Lakshman Pande struck me as a little strange. He is the real hero of your film, isn't he? He knows his Indian history, and can recite *sarfiroshi ki tamanna* with passion. He knows the exact number of people who were killed in the Jallianwala massacre. He

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is the only one in the group who is political and his reactions are always political. He gets the best lines in the script.

I am not suggesting for a minute that people believing in the ideology of the Hindu right can not be genuinely nationalist and are not inspired by the deeds of martyrs like Bhagat Singh, Chandrshekhar Azad and Ram Prasad Bismil. I also understand their hatred for Western culture. So it's entirely possible that Lakshman Pande sincerely works for his ideals and he refuses to take money from his party bosses. After all, it was the BJP which had the Yuva Shakti programme under its National Agenda for Governance which sought to "mobilize most idealistic, inspired and energetic sections of our society in the mission of nation building."

There are more than 200 million youth in India between the ages of 15 and 24. Most of them do not have much to look forward to and they are not political enough to understand why. They think corruption is the main cause for their unemployment and poverty. They see the rise of a prosperous middle class and hate its westernized culture. Their resentment is the recruiting ground for the religious right. I understand Lakshman Pande and his ilk. But I do not understand what you were trying to say about this character.

The weakest part of your film is that you never tell the viewers why DJ and his friends do not like Lakshman Pande to begin with. We know why Lakshman Pande does not like DJ and his friends. He says right in the beginning that they have destroyed the entire culture of the country. He refers to their beer drinking, dancing and loud music. Then Lakshman Pande tells Sue that she is looking in the wrong place for someone to act as Ram Prasad Bismil: "You will not get Ram Prasad Bismil here. You need true Indians. Those who themselves want to become foreigners cannot become Indian revolutionaries." He does not mind acting in a film made by an English woman on Indian revolutionaries!

Sonia on the other hand has only this to tell Sue: "You do not know how disgusting people like Lakshman Pande are." But we do not know why she thinks he is disgusting; except for the fact that he does not like Aslam because he is a Muslim. And Aslam is a member of Sonia's close circle of friends.

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At the candlelight protest (in the middle of the day) at India Gate, it is only Lakshman Pande who makes a political speech. He speaks for Ajay with passion and tells the public that Ajay did not save himself by jumping out in a parachute because he took the plane away from the habitation and saved thousands of lives. And he asks how many sons of Ministers have been patriotic enough to join the security forces.

In the end it is Lakshman Pande who confronts the corrupt Defence Minister and asks why he has allowed so many innocent people to die. The Minister gets angry and asks why he had taken out a morcha against the government. Lakshman Pande explains that the morcha was not against the government but for truth.

Lakshman Pande asks the Minister how he could make money at the cost of lives of youth who join the security forces and were willing to die for the nation. The Minister tries to bribe the young idealistic man but when he is not successful he gets him beaten. So, Lakshman Pande is the hero who takes a beating but will not give up his ideals.

And then Lakshman goes through a change of heart and embraces Aslam. Once he likes Aslam, he is acceptable to DJ and his friends. But he still believes in the ideology of his Hindutva party and may be he only likes Aslam as all Hindu communalists like "their Muslim friends". He has resigned from the party only because it is corrupt but not because he has any fundamental disagreement with its ideology.

DJ and his friends at first accept Lakshman only to please Sue and DJ is in love with his Gulabo. Sue thinks they are "only looking for excuses to kill each other. And now you have that excuse." Sue throws a tantrum tearing down the photos of the Indian revolutionaries because she wants Lakshman Pande to act in her film and the others do not like him. I wonder whether she would have asked a sincere, honest member of the racist National Front Party in the UK to act in the role of a human rights activist fighting racism.

Why could you not have made DJ explain a little of his objection to Lakshman Pande, at least in one or two lines? Instead we have the lovable DJ in tears telling Sue: "Even if lakhs of Ajays die it will make no difference. Nothing will change. He was a good pilot, a

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good friend, and a good son. He never harmed anyone *yaar*. He never did anything wrong. Why is everything over for him and Sonia *yaar*, our child."

And then we have the scene of an exhausted DJ lying with his head on Sue's lap fast asleep. And Sue suddenly thinks: "As I watched DJ sleep that night a funny thought occurred to me may be DJ was not sleeping. Maybe none of them were. May be they were all waking up." The question is what are they waking up to?

So, *Rang de Basanti* actually says that DJ and his friends (which include Lakshman Pande) are the true heirs to the legacy of Bhagat Singh. The film also draws parallels with the sacrifices of the Indian security forces, with the sacrifices of the Indian revolutionaries. So, who are the heirs to the legacy of Bhagat Singh and his comrades — the students who kill a corrupt Minister or the security forces who lay down their lives in the course of protecting our territorial integrity and sovereignty? I believe your analogy is not quite right. And I am not the only one who has problems with that analogy.

Did you read the review of your film by Hartosh Singh Bal in the *Tehelka*? He throws an important challenge to you and the rest of Bollywood when he writes: "The movie tries to draw a parallel between Bhagat Singh and Chandrashekhar Azad's struggle against colonialism and these college men discovering themselves when facing up to a corrupt and brutal state. Given the context, the parallel is bizarre. If the director had the courage to transpose the setting to Kashmir or to the North East, we might actually have had occasion to examine the nature of the Indian state and where it's gone wrong. But that's a film Bollywood will never make and viewers will never flock to see."

I agree that Bollywood may not have the guts to make such a film. But I do not agree that people would not come to see such a film based on the story I am telling you.

Films are such powerful ways of telling stories. Do you know that many youth in Kashmir were inspired to join the movement for *azadi* after watching *Lion of the Desert* in which Antony Qinn acts as Omar Mukhtar, the Libyan school teacher who fights for his country's freedom and is hanged. The Kashmiri youth saw in Omar

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Mukhtar the image of Sheikh Abdullah who was also a school teacher who led the *Mahaz-e-raishumari* (Plebiscite Front). He was the most popular leader in the Valley. Even while he was under house arrest at Prithvi Raj Road in South Delhi he would be occasionally allowed to go for Friday namaz at the Jama Masjid and then thousands of people would turn up to show their solidarity. But after the Abdullha-Indira Accord in 1979, the people in Kashmir felt betrayed, and so much so that when he died his grave had to be guarded by the Indian security forces to prevent people from desecrating it.

The film was finally banned but the youth had seen it many times over, and the video cassettes circulated well after the ban. Not only did the Government ban this film they also banned songs. Let me quote to you a song that inspired thousands of Kashmiri young men to join the movement for *azadi* in Kashmir. Let me tell you the first stanza:

Pyari maa mujhko teri dua chahiye
Bus shahadat mile mujhko Kashmiri mai aur kya chahiye
Zulm aur Jabr ki yeh siyahi raat hai
Aag aur Khoon ki Tez barsaat hai.

Dear mother, I want your blessing
All I want is that I become a martyr in Kashmir
This black night of oppression and violence
This heavy rain of fire and blood.

Rakeyshji, the 20 to 30 km processions which were seen after the fiasco of the 1987 elections were an expression of the aspirations of the Kashmiri youth who were angry with their leaders for betraying them. Everyone in Kashmir could see that the Muslim United Front was winning the election but when they announced the results the people were told that they had lost and their leaders were put into jail.

It was when all democratic means of protest for more than five decades had failed that the Kashmiri youth took to arms. No one in India seems to have asked why these Kashmiris actually picked up an AK-47. My mother's best friend, Sakina Hasan who was in

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Kashmir as Principal of a girls' college for many, many years told me that Kashmiris fainted even if they saw blood in the hospital. They were known to be cowards and faint-hearted. May be my story should begin with the 1987 elections in Kashmir. And, as the results are declared Sue's grandfather's question should be asked: "What is it about these boys that makes them have no fear? Sometimes a person is pushed so far that they reach beyond fear..."

That was the generation to which Geelani and Bismillah belonged.

In *Rang de Basanti*, you show that one encounter with injustice and a little knowledge of history of Indian revolutionaries drives five Delhi University students to kill. From where did they get the training? And I do not refer to arms training but a training that allows a human being to kill another. Do you know that in the First World War more than 15 per cent of the trained combat riflemen did not fire a single shot even when their own position was under attack? Killing has to be taught, it does not come easily. What is it that drives a man or woman to pick up arms? Killing does not come naturally to anyone.

My story is really about how the democratic space in India is closing and the danger that we face when all dissent is criminalized in the name of fighting terrorism.

Maybe I should have begun my story with a scene in Baramullah or perhaps at Delhi University with a young Kashmiri student asking the Registrar to give him a letter with his photo to state that he is a bonafide student of the University. The Registrar asks the student why he needs this letter when he already has an Identity card. The student replies that he is going to Kashmir and the situation demands that he have an identity letter with the latest date. The Registrar issues him a letter with his photo on it. The student is Abdul Rahman Geelani, a student of Linguistics Department, Delhi University in the early 1990's.

The Delhi University student checks his pockets — he has his library cards, I-card of his college, and students' concession ticket with a photo. He felt confident that he had enough proof that he was a bonafide student of Delhi University. He arrived home in

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Baramullah early morning and was enjoying his breakfast in the midst of his large family gathered around him — his mother, wife and her father, brothers. They had just started having their breakfast when they heard the sound of bullets and he saw soldiers with guns entering the gate. The men were all told to put up their hands and go out of the house. The moment the men came out the soldiers beat them with sticks. He found the men from the neighbourhood had all been lined up near the mosque. Since they live in the middle of the bazaar many of those lined up were shopkeepers. Among them were two men who had come from Sopore to sell fish.

The army officer ordered them to become "cocks". In case you do not know what "*Murgha banna*" means let me explain. It means that they have to sit on their haunches with their arms under their knees and hold their ears. It is an awkward position to be in, even for a few minutes, but to stay like that for a whole day can be excruciating. If someone fell, the soldiers beat them with rods or rifle butts. And they are told to keep their eyes closed.

There were men from the Indian Army, BSF and CRPF.

One of the Kashmiris in line was Manzoor Ahmad Shaikh, a bank manager. He was a little rotund and the officer shouted to him: "mote, Benazir teri kya lagti hai?" I do not think I need to translate this for you or explain its crude insinuation?

Then the Kashmiris were told to shout "Pakistan Murdabad" and abuse Pakistan. They were told to call their Allah and ask Him to rescue them from this humiliation. They shouted at another man and asked him what he did for a living and he said he was an agricultural officer. Their prompt response was: "Oh you mix poison with the tomatoes."

Another man was a shopkeeper. On that day he had loose motions and he asked permission to go to the nearby public toilet so they could keep an eye on him. He was sent escorted by soldiers who insisted that he does his job without closing the toilet door. With all this humiliation he soiled his pajamas. And they beat him on the head till he was bleeding and then they made him take off his soiled pajamas and tie it on his bleeding head.

Now it was the turn to ask Geelani what he did. He told the officer that he was a student. The officer told him to step out of the line. By now they were being asked to stand with their hands

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up and Geelani was pushed hard from behind. He insisted on seeing the senior officer because he realised they were going to torture him. He was taken to the officer and he showed him his identity card and even his boarding pass since he was still wearing the shirt he had travelled in.

The officer said they had a photo of him and showed it to Geelani. Geelani objected and said it was not his photo. The officer replied: "it resembles you fifty percent." Geelani tried to reason with him but the officer told the captain to take Geelani away. The captain put handcuffs on him and took him to a nearby bakery. The tandoor (oven) was mercifully not very hot. They stripped Abdul Rahman and put him on the oven. His hair on the legs got burnt. They took pliers and plucked his beard. This was the BSF. They beat him and told him to confess that he was a militant. They put a gun to his head and beat him.

Then came a CRPF officer whose name was Pandey (Could it be the nationalist Lakshman Pandey who finally joined the para military forces?) He ordered Geelani to be tortured. They made the young Delhi University student stand in different positions and beat him.

Geelani told me that this went on till late evening. He got some relief when two junior officers of the Indian army came in. They told him to relax. They were angry with the Indian state because they had been in the IPKF in Sri Lanka and had seen how innocent people were tortured. They did not like the idea that they had been sent to Kashmir to beat innocent people.

In the evening the same officer who had ordered Geelani to be tortured came back. Geelani was brought back in the line. The officer gave a speech saying that the Indian armed forces had been sent for the protection of the people of Kashmir and to win their hearts and minds. Geelani asked him whether he could succeed in his mission by humiliating people, and when the officer came to know that not a single one of the men lined up was a militant, the officer replied: "Gentleman, you are right." But then he called Geelani as he got into his jeep and threatened: "Don't try to become a philosopher, in three days I will kill you."

Geelani's family begged him to go back to Delhi and that is how his vacations were cut short. In Delhi, when he told his friends

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and colleagues about the incident and about other incidents where his family members or other people were tortured, they would listen. Many expressed genuine sympathy but they would not discuss the root cause of the "Kashmir problem".

The Delhi intelligentsia could not really understand what life was like in Kashmir. For them it was a holiday destination which had become dangerous.

When Geelani returned to Delhi he refused to become bitter. He was naturally angry. But he did not pick up a gun. Instead, he was even more determined to tell the Indian public about Kashmir. Geelani invited Kashmiri leaders like Yasin Malik and Shabir Shah to the University to speak so that the students and teachers could listen to them and form an opinion. He continued his studies, sitting in the library till late to finish his M Phil and his Ph D. The Vice Chancellor gave permission for the meetings but the Congress students union tried to disrupt the meeting and the police said since their permission was not asked they would not protect the Kashmiri leaders from any violence that may occur.

The intelligence agencies must have started to notice this outspoken Kashmiri on the Delhi University campus. For them open discussions, debates and exchange of views were a sure sign that Indian democracy was in peril. For them, he was a dangerous man who needed to be silenced. And so, when the Parliament was attacked on December 13, 2001 the intelligence agencies could kill two birds with one stone: satisfying the angry public by producing the 'mastermind' and silencing a man who they had already marked.

How do you fight these intelligence agencies? They have no face and no name. They are not accountable to the people and in the midst of this war against terrorism they seem to have acquired absolute impunity. The Special Cell policemen could get away with framing an innocent Kashmiri, torturing him, carrying out a pernicious campaign against him in the media and even telling lies on oath. Court proceedings revealed that the investigation agencies had not only fabricated evidence but also forged documents. Yes, there was no enquiry against them, no punishment and the courts (Sessions Court, High Court or the Supreme Court) passed no strictures against them. It was only when ACP Rajbir

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Singh started terrorizing the middle class belonging to the majority community in the course of illegal land deals that the media reacted. On September 27, 2005 *Hindustan Times* carried a report entitled: "Kalam had ACP Rajbir shunted out, HC told." No one asked why the President of India had to intervene to transfer a corrupt police officer. And we do not know what ACP Rajbir Singh is up to now.

Rakeyshji, I have so far given you the background to my story. But without knowing these facts how would you have understood the significance of my story? You ended your story so dramatically with DJ and his friends being outraged by the actions of the corrupt minister and Rohan's father that they shot them. They did not carry on a campaign, trudging from one newspaper office to another right across Delhi giving press statements only to be disappointed the next day when they discover that no paper has carried their reports. DJ and his friends did not have to attend court day after day or deal with a lawyer who kept demanding money even though the family had barely enough to eat.

Running the campaign for Geelani's acquittal was not an easy task. The media did not even respond when there was an attempt on his life inside the jail.

I still remember the haunted look in Geelani's eyes when he told me that he had been attacked inside the jail on August 17, 2002. The jail authorities put a pickpocket in Geelani's ward. The man was dirty and kept sleeping as if he was under influence of drugs. That day the canteenwala came around with *katchoris*, a rare treat for the prisoners. Geelani offered the pickpocket a *katchori* and paid the canteenwala. The pickpocket started calling Geelani Bhaiya. Later, when the cells were opened, the pickpocket went in to talk to Sher Singh (of Phoolan Devi fame). They pretended to play Ludo but the pickpocket confessed to Sher Singh that the police authorities had told him to kill Geelani.

The jail authorities had given him a big blade and he had it already wrapped in a handkerchief for better grip. But Geelani's act of kindness had made him hesitate and he wanted Sher Singh's advice. Sher Singh had developed respect for Geelani because he was learning English from him and regarded him as a teacher.

But the pickpocket knew he would face hell from the jail authorities if he did not do their bidding and he had been given

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drugs so he was stoned. He lunged for Geelani causing him to fall down. Sher Singh and Shekhar came to Geelani's rescue.

Geelani filed a complaint before the court but the judge did nothing. Then we filed complaint before the National Human Rights Commission (NHRC). The jail authorities replied that the story was false because no one could bring in a blade into the jail. It was against the rules. The case was closed but the pickpocket was removed from the ward.

We had a press conference and tried to convey the urgency to the media but no one cared.

However, on February 8, 2005 when Geelani was shot outside my house in Delhi more than three hundred students, teachers, human rights activists and colleagues gathered within a few hours and waited outside the All India Institute of Medical Sciences. Our campaign had had some effect. The media was there with their OB vans and they asked Geelani's colleagues who could have shot him and every one they asked replied "the police". Then they asked Kamini Jaiswal, Geelani's lawyer in the High Court and Supreme Court and she too spontaneously replied: "the police".

That was the universal verdict.

The police asked me for my statement and I told them that Geelani and I had been in Supreme Court till four in the evening. After that Geelani went to his college to teach and I went home. At home I was working on the final submissions and phoned Geelani around five in the evening to request him to drop by on his way home. He came into my colony around 8:45 pm, he got out of his car and was checking the door to see whether they were locked when he saw a man standing opposite him aiming a gun. He fired several times. Geelani had the presence of mind to run and I will never forget the loud banging on my doors that night and his words: "I have been shot. Take me to the hospital."

From the next day all hell broke loose. The media and the police started attacking us. It was interesting that they did not go after the Delhi University teachers who had even held a demonstration outside the police headquarters the next day to protest. The police started an investigation into our lives, the lives of our small group that was the heart and soul of the campaign for

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Geelani's acquittal. For the public at large the group was anonymous but obviously the intelligence agencies had an eye on us.

Who were these men and women? Don't you want to know about them, Rakeyshji? Let me introduce you to them.

I will begin with our Sardar, our own very own DJ! I know he had gone to see *Rang de Basanti* with all his friends and they all enjoyed it. Our Sardar's name is Jatinder and he was then a student of Jawaharlal Nehru University. Like your DJ he has cut his hair. He is a beer-drinking, music loving popular guy. And he loves a good joke — even in the middle of a tense situation. And he was forever receiving jokes from his friends in Punjab via SMS throughout the day and night.

Sardar does not like silence or quietude. He chose his hostel room next to the common room so that he could hear some noise all the time. It was impossible to sit in car and contemplate on things during a long drive because Sardar had to have music, preferably loud music.

But behind the happy go lucky Sardar is the serious, thoughtful human being who is a keen observer of human beings and society. He had been a victim of my anger and tongue-lashing on several occasions. He took it in his stride but observed: "Her anger is like Iraqi resistance. It is justified but along with the real targets a few innocents also get killed." That was our Sardar, he always hit the nail on the head.

I am sure he would have really enjoyed DJ's remark: "We have one leg in the past and one leg in the future and we are peeing on the present." But Jatinder was not peeing on the present. He was intensely involved in trying to change the present so that we could have a better future. He was involved in the struggle on the JNU campus against corporatization of the campus. He and his friends led a successful struggle against the transnational corporation Nestle being given land in violation of the University's policy of allocating kiosks to people from disadvantaged sections.

Sardar joined our campaign for Geelani's acquittal because he was disillusioned with the attitude of the local human rights group. He felt they were refusing to take up the real issues and were only interested in focusing on the formal violations of procedures, not the major issues of human rights that the case

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had raised and they seemed to lack political imagination. But Sardar was to discover that many human rights activists and groups had a totally different agenda from ours.

In a way it was Bismillah who helped us put the puzzle together even though he himself could not understand why certain human rights groups did not support our campaign. Bismillah was not like your Aslam in any way. He was much more reserved and did not approve of Western culture. In some ways he sounded more like Aslam's elder brother. Once Bismillah told me he could never understand why his brother Geelani always had so many non-Muslim friends and why he depended on them rather than on the family and his own community.

The Aslam in your film and Geelani in my story share one quality. Both of them value friends and friendship that went beyond religion and community. His good friend at that time was Kumar Sanjay who adored him. It was their friendship that inspired me to take up the case in the first place. A Doon School educated Bihari Rajput and a madrasah educated Kashmiri Muslim being friends in the midst of the BJP rule was like an oasis in the midst of the desert. I apologize for this cliché.

The Delhi Police even told Geelani that they were really surprised that so many non-Muslims had such good things to say about him. This they discovered in the course of their investigation after the attempt to assassinate him.

It was not only Bismillah who could not understand this aspect of his brother but Geelani's family many a time resented the fact that he placed his trust on his friends, colleagues and human rights activists. The family members who gathered around in the hospital did not even notice Sardar leading seven JNU students to donate blood for Geelani. Those seven included one man from Assam, one from Jammu, one woman from Darjeeling and I do not remember who else. I just remember that they were all of very different shapes and sizes and they all came into the hospital laughing and joking led by Jatinder.

I liked the dialogue between Ram Prasad Bismil and Ashfaqullah. It touched me deeply. Bismil advises Ashfaqullah to go to Afghanistan because he would find his own people. And

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Ashfaqullah replied: "*Kya main tumhara apna nahi hoon?*" (Am I not one of yours?)

We were constantly faced with this "them" and "us" attitude. When we were raising funds many intellectuals told us to approach Muslim businessmen in the old city. It was a strange insensitivity. Why should the Muslims pay for the communal attitude of society and state? Was it not the responsibility of those who want to fight against communalism to contribute? We did not take money from any Muslim organization in the course of our fund-raising. We also did not raise money from Kashmir.

Then when Geelani was acquitted we were looking for a house for him. Whenever we asked colleagues to find a place they would respond that he should look for a house in a Muslim area, "they" will give him a house. It did not occur to them how vulnerable a Muslim family would become if they had Geelani as their tenant. In the end when no one would rent a house, Geelani had to buy a small house in Zakir Nagar on the fourth floor without regular water or electricity.

Bismillah did not understand his brother's attitude but in the course of the campaign he realized that it was precisely that quality which had saved his brother's life — his ability to make friendships across religious and communal divide. And slowly Bismillah also opened up and started making friends with all of us.

I think Bismillah and Sardar had a unique friendship. Both shared a humour which hid their deeply sensitive beings. Both of them had a very serious side but could find it in their hearts to laugh at the most difficult times.

It was Rona who had brought Sardar into our campaign. Rona had long fuzzy hair and beard. Despite this physical look he had something elegant about him. He was really good human being, deeply sensitive to the pain of others. Rona was always calm, dignified through the ups and downs of the campaign. He kept us together, smoothened ruffled feathers and worked like a donkey.

Rona was our ideologue. I must tell you that our entire group along with other friends went to see *Rang de Basanti* and came back quite happy. It was Rona who told me that he was very angry with the film: "The more I think about it the more angry I feel." It is

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not that Rona could not enjoy light hearted humour. He had a wicked sense of humour but he could not tolerate irresponsible politics. He kept telling everyone that *Rang de Basanti* was dangerous. I must say I did not take him seriously. I hate too much analysis. It comes in the way of my enjoying so many things.

But may be Rona had a point. I heard Karan's speech after they seize the All India Radio. Let me refresh your memory:

> My name is Karan Singhania. I and my friends murdered the Defence Minister. I repeat I and my friends murdered the Defence Minister. We are not terrorists. There is no foreign hand behind us. We are not from any political group. All of us five are students of Delhi University. We killed the Defence Minister because he took the life of our friend Ft Lt Ajay Rathod. He was responsible for the death of many brave pilots like Ajay. We murdered him because after taking away Ajay's life he even defamed him. Ajay's mother who lost her husband and sacrificed her son is in hospital in coma. Defence Minister is for protection of the country but he sold the country. Who will stop this? The law? They bend and break the law to use it against us. We murdered Defence Minister Shastri because even after doing such a big wrong in front of our eyes he was coming out white. May be we did a wrong. It is wrong to take someone's life. But we could not bear to see all this.

And then Karan gives his strategy for fighting corruption and changing the face of India. In reply to a question from a cynic who says there is nothing we can do to change this country Karan tells him: "No nation is perfect. It has to be made perfect. We will get admitted into police, join the military, become IAS officers. We will become a part of the politics and run the country. This country will change. We will change it."

And then a few minutes later he and DJ are shot dead.

I never did get around to asking Rona what he thought was dangerous about *Rang de Basanti*. But I think I know what he would have said. Rona is a Marxist and knows that corruption is only a symptom of the disease. That is why the Great Indian Middle Class wants people to think that corruption is the cause of all the problems in India. They do not want to go into the deeper causes of inequality and discrimination.

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Rona was a bit annoyed with Vinod for being so enthusiastic about *Rang de Basanti*. Vinod is a media studies man and a radio journalist by profession. I think he got carried away by your camera work. He phoned me in Goa telling me to go and see the film and he then took 13 JNU students to see the movie. I think he liked the idea of DJ and his friends seizing the All India Radio and giving the speech.

Vinod was working in the *Indian Express* when the Parliament was attacked. He rushed to the spot and started interviewing the MPs and asking them for their reactions. He spent several hours and managed to interview nearly a hundred MPs. When he returned to his office he was told he should forget the reaction story and find out how the attack had affected the flow of traffic. He did the story but soon left the paper. He remembers the police claiming that one of the men who attacked the Parliament called Mohammad was the same man who hijacked the plane to Kandahar and killed. But passengers who had been in that hijacked plane phoned *Indian Express* to say Mohammad did not remotely resemble Berger. Vinod wondered why the police should make such claims. And then there was the matter of the sixth attacker. The Police Commissioner had sent a person to the newspaper offices to ask them to stop talking about the sixth attacker. It all seemed very strange.

And then Vinod saw Geelani in court. He could not believe that Geelani could be involved in such an act. Vinod is curious like any good journalist but he is also warm hearted and his heart has a place for anyone who needs his protection.

Vinod is full of enthusiasm and is in search of new ideas. He said he really enjoyed working in our campaign because it taught him so many things about communication. In the middle of the campaign he even started a monthly journal called *Free Press* in Malayalam. The circulation went up to a whooping 40,000 within two months. He carried a cover story on Geelani. He was the first one to have the courage to do so. I think it was from that time the intelligence guys started keeping an eye on him. They did not merely keep an eye on him but he found they had also started intimidating the paper merchant, the press and even the young people who helped in circulation.

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The day Geelani got shot Vinod was in Kerala down with jaundice. The intelligence agents reached his village in Wayanad. The local police officer even told him not to go back to Delhi because his life was in danger. Threats do not work with our little group.

In fact Sue's grandfather could be speaking about our little group when he said: "What is it about these boys that make them have no fear? I think sometimes a person can be pushed so far that they reach beyond fear a place where you find strange peace, where you free yourself to do the right thing."

It is not only the boys. We had our own Durga Bhabhi in the shape of Mayori. She is a Naga woman who could have been a part of DJ's gang. She would have loved the mobike rides and the beer. In fact she could have taught them all a bit about dancing and music. She and our Sardar shared dirty jokes and could laugh on the slightest provocation. Mayori went behind Vinod's bike giving press releases, she addressed envelopes to MPs with our appeal for Geelani's acquittal, most of all she kept up our spirits.

Mayori is a Naga nationalist and that is why she felt a deep sense of solidarity with Bismillah and Geelani. She knew the real meaning of living under army rule. In her simple and direct manner she was the one who felt the deep pain that Geelani and his family lived with every day. Nagas deal with their pain through humour so one day she tried to cheer up Bismillah by telling him that the Indian armed forces did far worse torture in Naga areas than they did in Kashmir. And Bismillah replied that it was worse in Kashmir. They started exchanging torture stories. I knew that neither of them normally would ever discuss details of torture. But both knew that the other understood. I listened in, my stomach turning. Mayori gave up, admitting that the situation in Kashmir was far worse. She quickly changed the subject.

So, Rakeyshji you have met our little group. And the group did not only face the police, intelligence agents and a hostile media. We had to face another insidious opposition. There were the foreign funded NGOs who talked in the same language as we did and sometimes in even more radical language. But they tried to sabotage our campaign and our attempt to get Geelani acquitted. At first we did not really understand because we were too busy running our campaign.

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Geelani was sentenced to death by the Sessions Court. We had to go in appeal. We were desperately looking for a lawyer but we could not afford to engage any senior criminal lawyers because their fee was prohibitive. You can imagine how overjoyed we were when Mr Ram Jethmalani announced that he would defend Geelani. So you can imagine our shock when Bismillah came in the evening to ask whether they should accept Mr Jethmalani's offer. He said a human rights activist had visited Geelani's wife and advised her not to accept Mr Jethmalani's offer. But why, I asked. Mr Jethmalani is the best criminal lawyer in India and he was a Member of Parliament supported by the ruling party. How could anyone advice Geelani's family not to accept his offer? It seemed to be an advice to sabotage Geelani's chance of acquittal.

Like the intelligence agencies these so called human rights activists play double games and it is very difficult to expose their hidden motives. They tried to bribe some members of our group by offering them jobs, they sabotaged our campaign by running a whisper campaign against us and when all failed they tried to appropriate our work. If you are confused I assure you so were we. But then we realized that our working style had exposed these NGOs who spend so much money, live in five star hotels and enjoy holidays in Kashmir every year all in the name of showing solidarity to the Kashmiris. But now Kashmiris were beginning to ask who these people were who were fighting for a Kashmiri political prisoner and were raising their own funds and using their own resources. Some people told us that these NGOs work closely with Indian intelligence agencies and others said they work for foreign governments. So you see, Rakeyshji, how the plot thickens?

I am now coming to the end of my story. It has a happy ending as you know. Geelani was acquitted by the High Court but we felt we needed to continue our campaign till the time Supreme Court confirmed the verdict. There was a possibility that the highest court could reverse the High Court's verdict and Geelani could find himself back on death row. The police had already given a statement to the media that they intended to do just that.

We decided we wanted to have a media event so that journalists would be persuaded to report our side of the story. It was at that point of time that we got an offer from independent film makers,

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photographers, designers and artists to create a poster exhibition. The exhibition was called "Lies of Our Times". It was created by this group of artists for the All India Defence Committee for Syed Abdul Rehman Geelani. The members of the Committee were all people with impeccable reputation for honesty and their contribution was crucial in the campaign. They are certainly an integral part of my story but they are people who make guest appearances.

It took us two months to write the script. It was a woman who designed our posters and she really devoted herself to the task with so much care. I will never forget the scene of Geelani and our designer friend sitting in her garden and chatting and smoking. And then suddenly her husband came out of the house and was visibly shaken to see his wife chatting with a Kashmiri "terrorist".

A former prime minister of India agreed to inaugurate the exhibition but could not come at the last minute, but hundreds of people came and wrote some beautiful responses in our register. But for the media it was still a non-event. From the public hall we moved the exhibition to Delhi University. We had permission to show it at the Sociology Department, Delhi School of Economics. But a day before a policeman phoned the Registrar of Delhi University to say they expected trouble so the exhibition was cancelled. When Rona and Jatinder arrived with the exhibition they found D School surrounded with police vans and soon they were joined by ABVP shouting "*Agar Bharat Mein Rahana Hai To Vande Matram Kahena Hai.*"

This phone call from the police had the effect of frightening the University authorities and they cancelled our exhibition in other colleges and in South campus. But none of this really made news. The media gave one paragraph that the exhibition had been stopped. When the Delhi University teachers protested, sent memos to the Vice Chancellor and sat on dharna, the media did not take notice.

In defiance of all this intimidation, Rona and Jatinder organized the exhibition on behalf of their Democratic Students Union and called Geelani to speak at Jawaharlal Nehru University. The inauguration of the exhibition went off well but when it came to Geelani coming to the campus to speak the Lakshman Pandeys

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on the campus, their party bosses came in all their strength to stop and disrupt the meeting. It was on August 17, 2004. Two years ago Geelani had been attacked in jail on this day and here he was again threatened.

It was an after dinner meeting at Sutlej Hostel. Jatinder phoned to tell me that there was a huge mob at the front entrance and we should come from the back gate. My husband, Bismillah, Geelani and I set off by the back entrance and entered the campus. We deposited Geelani at the house of a friend and we drove to Sutlej Hostel. Our car was surrounded and the mob started throwing stones on the car. Some students had made a chain and took me inside while Sebastian, my husband drove Bismillah to safety. When I went inside the dining room of Sutlej I found nearly a thousand students waiting impatiently to listen to Geelani. But the Lakshman Pandeys outside posed a real threat, so we did not dare bring him into the hall. I started speaking. I spoke for more than an hour and by then the ABVP had started going away. We decided to take out a procession and everyone inside the mess joined as we wound our way around the JNU campus.

When we came outside we found the media had arrived. We had made it! Rona and Jatinder wanted Geelani to speak. Geelani was ready to face the danger. Student leaders from other organizations also joined in and assured me that they would make a human chain and protect Geelani. And so we did. It was a wonderful moment to see the students from different organizations and ideologies making a long human chain from the house of the faculty member to Sutlej Hostel. They had made a common cause against the Lakshman Pandeys of JNU and their politics of hatred. As Geelani entered the dining room he was greeted by a thunderous applause. It was nearly midnight. I reproduce his speech for you:

> Today fascist forces are trying to close the democratic space in this country. They want to finish the democratic space. And all of you have come together with all your courage and your strength to make sure this democratic space is kept open. I would like to congratulate you from the bottom of my heart. (Loud applause)
>
> Friends, I have not come here to make a formal speech but to share some of my experiences and my concerns. These

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concerns are concerns of all those who believe in democratic values and want to save democratic principles from being eroded. They want to stop the process by which these values and principles are being eroded away. The forces who tried to stop us but you were successful in stopping them. (clapping and slogans). And in the future also we will try to keep this democratic space open.

Friends, today we were supposed to discuss political prisoners. But the situation is such that we must discuss other things along with discussing the condition of political prisoners. It is already very late and I will take only a little time.

From the time of my arrest, to the time I was in jail and till the time I was acquitted I witnesses thing that made me very sad. Perhaps before going to jail I did not really understand the meaning of political prisoner. But when I went to Tihar I saw that many innocent people in prison only because they were associated with some political ideology, or belonged to one community or came from a particular geographical area. I would like to give you one small illustration of this.

After I was in jail for several months some Kashmiri prisoners were brought by the Special Cell police. By a strange coincidence those men seem to be standing in this hall keeping an eye on us. These people picked up 11 Kashmiri students from different parts of India and from different professional colleges, such as engineering colleges, agricultural colleges etc and put them in Tihar jail for nearly a year.

The students lost that academic year. The next year was also wasted. And the colleges in which they had got admission would never take them back after their release out of fear. Tell me is this the way to win the hearts of people? You all feel outraged when you hear of Falluja. But in Kashmir every town has become a Falluja. In every street, every corner and every village has a military camp and in every camp there is a detention centre. And the condition in every detention centre is like Falluja. I would like to appeal to you that the outrage you feel for what is done in Iraq you should feel the same outrage for what is happening in your neighbouring state, Kashmir.

After being in jail I realize the need to save the democratic institutions. I talk about the cause of Kashmir, and the rights or the Kashmiri people and I will always continue to do so because I believe that if the Kashmir problem is solved it will not only help the people of Kashmir but also the Indian and Pakistani

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people. A few days ago former Prime Minister I K Gujral said that we spend money in the name of Kashmir but not in Kashmir. The enmity between India and Pakistan is only because of Kashmir.

Friends, the money that is spent by India and Pakistan for security is also in the name of security in Kashmir and that is why the defence budget of both countries is going up. In both India and Pakistan so many people live below the poverty line, they do not have safe drinking water, people die of hunger. In such countries to spend so much on defence does not speak well for them. For such countries to make such weapons also does not speak well. And all this is happening only because Kashmir problem is in such a tangle.

When there are talks between India and Pakistan and they give a joint statement it invariably says that we agree to resolve our problems through negotiations bilaterally including the question of Kashmir. Both sides accept that Kashmir is an issue. All that we want to say is that the principal party to the Kashmir issue is the Kashmiri people themselves. To resolve the issue of Kashmir the people of Kashmir must be consulted and their views and aspirations taken into account.

Friends when ever I talk about Kashmir I would not want that democratic institutions in India get weakened. I want that Indian democracy becomes stronger. And in the time I have been under detention I have seen Indian democratic institutions become hollow. I have seen the media, judiciary, police become undemocratic. My only appeal to you is that you all unite together to protect these democratic institutions and fight for democratic values. Now I would like to take your leave. (Thunderous applause)

The students were really moved by Geelani's short speech and the atmosphere was charged. They made a human chain right from the hostel to the gate so that he could be escorted out safely. Jatinder and his friends knew exactly why they could not work with Lakshman Pandeys however idealistic they may seem to be.

Rakeyshji, I take it you do not support the movement for self-determination of the Kashmiri people. I am sure you think even talking about the movement is anti-national. And I am not going to launch into a political lecture on the right to self-determination as a basic human right guaranteed under international human rights law. I just wanted to share with you a comment I read on a media website by someone called Vishal: "For many Kashmiris the attack

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on Parliament was probably the same as *Rang de Basanti* gang hijacking the radio station and executing corrupt politicians." What do you think of this reaction?

The question before you as a professional film maker and me as a human rights lawyer is that what role should we play in these conflicts? I am assuming that you have a degree of patriotic fervour. I confess I have. Does our nationalism dictate that we demonize our enemies to such an extent that we ourselves lose touch with reality? Do we become victims and prisoners of the images we create?

There are lakhs of our youth who really want to do something to make this country the kind of country that Bhagat Singh and his comrades dreamt of and sacrificed their young lives for their dream. They would identify with the lines with which your film began:

> *Ab jiska khoon na khaula khoon nahin woh pani hai*
> *Jo desh ke kaam na aaye to woh to bekaar jawaani hai.*
>
> Those whose blood does not boil have water in their veins.
> Those who do not work for their country waste their youth.

Hundreds of thousands Indian youth identified with DJ and his friends. They shared their anger. I am sure they really liked the scene in which the corrupt Defence Minister is seen as General Dyers at the Jallianwala Bagh massacre. Karan and his friends are clear that the law and the police are not on the side of justice. That is what I liked best about *Rang de Basanti*. There was no illusion created that there is a solution within the system. No long trial at the end of which justice is done. But what did you really want to say? Was it to teach us about the real causes of corruption or was it just a cynical story?

But what is the final impact of the film? You show that killing of the Minister was of no use because he only became a martyr. And the media would not help. The police and legal system was of no use. The seizure of the AIR was effective but is only a one-time act. And in the process the five students are deliberately killed by the Rapid Action Force. You have shown the system to be cruel and totally incapable of responding to the democratic rights of

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people. So we are left with only Karan's advice that we must join the system to reform it!

The only people who could have carried out the fight after DJ and his friends were killed, are the three women. But Sonia and Sue are seen drowned in their own sorrow, no longer angry. Sue does not even show her film. And Ajay Rathore's mother is still in coma even though you do show some signs of life in her. Will she get out of hospital only to hang a photo of her son and pray? Your story had just one beginning and it ended without any hope of a continuation even though in the end you show a child planting a tree — a bit of a cliché, don't you think, Rakeyshji?

Geelani and his friends are the true heirs to Bhagat Singh's legacy. Their nationalism was neither elitist nor did it suffer from cultural romanticism which inspires fascists like Lakshman Pande. And remember that a fascist can be an idealist, but he is committed to reinforcement of the status quo and the existing power relations. Our little group was committed to changing the existing power relations.

You think I have gone crazy to compare a Kashmiri Muslim "terrorist" and his friends to Bhagat Singh and his comrades. But just think what Bollywood has made Bhagat Singh. In Guddu Dhanoa's film *Shaheed Bhagat Singh,* Bhagat Singh is offered a Guru Granth Saheb which he refuses but he says: "God lives in the heart." We all know that Bhagat Singh was an atheist and he even wrote a pamphlet on the issue. I do remember that you showed Bhagat Singh reading Lenin in the beginning but in the end you made him in the shape of Karan asking the youth to join the system!

You began with a wonderful scene in London when Sue's funders tell her there were no funds for a film on Indian revolutionaries. They tell her that there were funds for "Gandhi, Che Gueverra, and even Robin Hood..." I think now Sue would not get funds for even Che and Robin Hood because the British anti-terrorism laws make it a crime to glorify any act of terrorism. I like to imagine Sue and Sonia join the fight against war against terrorism taking part in anti-war demonstrations opposing US occupation of Iraq and Indian occupation of Kashmir.

You think I have a wild imagination to say Geelani, Bismillah, Rona, Vinod, Jatinder and Mayori are the heirs to Bhagat Singh

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and his comrades. But the idea came from a letter Geelani received from one A C Rathore a former Superintendent of Customs in Rajasthan. He wrote in Urdu and I reproduce the letter:

Mautaram Dost,

Jai Hind. Ba izzat salaam ke baad urz hai ke bande ko aap se milne ki bari tamanna hai. Taakat ka jab beja istimaal karma ho to POTA jaise kanoon banaa diye jate hain. Main sattar saal ka beshak ek buzurg hoon. Lekin abhi Bhagat Singh, Ashfaqullah, Chandrashekhar Azad aur Subhas jaise logon se prerna lenewale insane-numa beej se darakht paida honewali nishani ki khairkhari chahata hoon, take bharat desh kabhi bhi ubhar sake. Khuda ki fazl se jab bucch hi gaye ho to phir apne mai aisa anokha kaam karo aanewale naujawan sathiyon main insaan hone ka jazba paida karsake. Kisi behen, beti ka na balatkar ho aur nahi us such se jine ke raste main rukaawat daali jaye. Hamare desh main sahi maine main maa paida karne ya taiyaar karne ka koi udharan nahi hai. Agar maa ek mahaan aurat ki shakl mai zahoor mai aayegi to agami generation kisi bhi bhatkon se bacch sakti hain.

Mere dost aap ko zindagi kucch kar guzarne ke liye mili hai. Meri shubh kamanaye tum se umeed karti hain. Aur behen Afsan ko bhi agar mil sake to meri duayen dena. Main tumhe aashirwad dene dehli bhi aasakta hoon. Agar tum mere pate ek addat postcard daal kar apna pata (milne ke liye) bata sako. Aajkal main gaon mai hi raheta hoon.

Mai do saal Kashmeer (Srinagar) rah aya hopon. Duniya ka swarag hai Kashmeer lekin log isko tabhah kar rahen hain. Isko bachane ke liye donon deshon ko pyar se mil kar sochna hoga. Mai Bhagyashali manoonga khud ko agar mujhe tumhara jawab mile to.

Tumahar A C Rathore.

Here is a rough translation:

Respected friend,

Jai Hind. With respectful salaam I would like to say I have a great desire to meet you. When they want to use force they invent laws such as POTA. I am a seventy year old man but not

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too old to not take inspiration from men who are inspired by those who have the potential seed to grow into trees like Bhagat Singh, Ashafaqullah, Chandrashekhar Azad or Subhas. I want the well being of such seeds so that Bharat once again can blossom. Now that you have been saved with god's grace then do something so unique that it inspires the youth to become real human beings. No sister or daughter should be raped nor should there be any obstacle in the way if she has to live with that reality. In our country there is no example of a great woman who comes in the form of a mother to rescue future generations from wandering.

My friend, you have been given life to do something with it. My good wishes are sent with the hope that you will do something. And if you meet sister Afsaan please convey my dua to her. I am willing to come to delhi to give you my blessings if you send me your address on a postcard. Now a days I live in the village.

I have lived in Kashmeer (Srinagar) for two years. It is one of the heavens of this world which they are destroying. To save it both the countries should meet lovingly and think together. I will consider myself fortunate if I get a reply from you.

Yours,
A C Rathore.

I am sure you are shocked at the way my story is developing. As Ben Okri says a good story keeps growing. A good story never dies. My story has so many beginnings and no end. Geelani and his friends continue to fight injustice and they do not intend to give up. You killed DJ and his friends even before they got a chance to understand the real causes of the corruption and you did not allow their anger and their anguish to transform into a political understanding and action. You made them commit senseless violence at the instance of a white woman in the sacred memory of our Shaheed Bhagat Singh and his comrades.

Rona is right. Rakeyshji, *Rang de Basanti* is a threat to our democracy because it endorses the ultra nationalism of the majority community, and it has no political analysis to offer. You yourself have in several interviews denied being a political person. But how long can you avoid taking political stands? More than 15 million people watch Hindi films a day in India. Do you not have any

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responsibility to them? Even Hollywood has made V for Vendetta and Syriana.

Rakeyshji I am an optimist. I am writing this letter in the hope that you will be inspired to tell the real story of Kashmir and expose the shameful role that India and Indian citizens have played. You may even be inspired by the story of those Indian students who had the courage to stand up for at least one Kashmiri political prisoner and now they are fighting for another who is in Tihar Jail's death row. Yes, I am talking about Mohammad Afzal Guru. I told you my story has no end and it has the merit of being a real story about real people.

Should I expect a call from you to discuss the prospects of a new kind of Bollywood film?

Yours sincerely,

Nandita Haksar

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In Celebration of an Impossible Friendship

Letter to Syed Bismillah Geelani

Dear Bismillah,

I must admit that the most rewarding part of the "case" was the time we spent together, allowing each other access to inner most feelings, anxieties and sharing our pain, emotions and concerns. Even though our conversations were deeply personal the underlying concern was always political. To many friends it seemed odd that we had so much to discuss and share: You, born into a Kashmiri Sunni Muslim family with strong links to Jamaat-e-Islami and I, born in a family of Indian nationalists with a strong influence of the Communist Party of India (CPI).

But we both felt a certain discomfort with the ideologies and politics with which we had grown up. I have been feeling increasingly uncomfortable within the left, secular and progressive circles. It was this discomfort that was in large part responsible for my shifting to Goa. And you have remained in Delhi since 1996 and not returned to Kashmir even though your heart and soul were there in the Valley. That is the only place where you truly belong but the political scenario there is not conducive to creative thinking.

But before we could begin to talk to each other there were so many barriers to be overcome. It took you more than a year before you asked me whether you could offer namaz in my house! And you never ate meat in my home in case it was not halal. Even when I told you it was halal you did not trust me. The first time you ate the kebabs was when a Pakistani friend of mine ate the kebabs. You felt if she could eat then it would be safe for you but then you

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were shocked that she was not particular whether it was halal or not. You had not realized that I had checked from the shop before inviting you to eat them. I only mention this small incident to remind you that we have travelled a long way.

I know it was not entirely your fault that you did not trust me. I realized that in our left-secular circle a Muslim cannot really feel at home. We have not evolved a culture where believers can have a sense of space to express their views. This was something that was obvious even in our little group.

Our efforts to understand each other have needed a lot of patience and effort. It was not easy for either of us because it meant we had to confront our own prejudices and political assumptions. I know you are still grappling with many questions as I am. It has been a painful process. Our interactions have raised more questions than answered them.

I write this letter in an attempt to put our entire experience into some framework so that it can help both of us answer the questions that our interactions have raised. This is naturally one-sided. But I hope this will lay the basis for the possibility of a dialogue.

Did you not say once that in Islam the job of a friend is to hold a mirror to his (or her) friend?

A Political Case

I still remember vividly the date and time when we first met. It was in the most unlikely of all places — in a five star hotel at around midnight of June 12, 2002. It was just about six months after your life had turned into a nightmare without much hope of getting out of it in the near future. I was doing everything I possibly could to avoid taking up this case. It was only on the insistence of your brother's friend Kumar Sanjay Singh that I was persuaded to come out of my self-imposed exile in Goa. Our meeting at that time of the night was to find out whether it was possible to meet Geelani in jail the next day.

I am sure you remember our first meeting.

It was much later that I asked you what you thought of our first meeting. You said when Sanjay told you that he had asked me to

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come to Delhi, Pancholi Sahib had reacted *"Woh Pagali!"* Remember, when I asked Pancholiji to confirm your story in Srinagar he was so embarrassed and denied it. But I believe you. And I am sure he said this with a great deal of affection. So, you kept staring at me and wondering whether Pancholiji's description was not apt? But when I said in the course of our discussion (rather one-sided at the time) that we must handle this case politically you heaved a sigh of relief. Perhaps that is what aroused your curiosity about this madcap Kashmiri Pundit woman!

You told me that you were relieved when I said we had to treat this as a political case and not merely as a criminal case and so, we had to get a criminal lawyer who would understand politics and also be a good trial court lawyer. I understood the problem but that did not mean I had the means of resolving it! How were we going to find a competent trial court lawyer who was also political as we understood the term? Geelani's father-in-law had contacted Ram Jethmalani who had refused at that stage.

You told us that we could meet Geelani the next day but we must be prepared to wait a long time. I arrived at Tihar Jail by eight in the morning. You came with Geelani's wife, Aarifa. We waited in a large waiting room rather like a railway station platform with the difference that everyone kept to themselves talking in hushed tones and not making any effort to talk to others. After two hours we shifted inside to a smaller waiting hall. There I found a young African man sitting with a bag of bananas. I went to sit beside him as an act of solidarity but he moved his bag of bananas and looked apologetic for occupying space. It reminded me strangely of the last scene in Manto's *Khol do*. Do you remember? The woman who has been raped during the partition and lands up in a hospital where she hears someone asking another person to open the window but the moment she hears *"khol do"* her reflex action is to open the strings of her shalwar.

Then a policeman came along and asked Aarifa what she was waiting for and she replied without moving her lifeless body "high risk". I gave her a quizzical look and she turned to me and with a weak smile she explained: "I have got used to it." She had got used to calling her husband "high risk". That was my first glimpse

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of her fighting spirit and her humour. I wanted to say something to comfort her but there was nothing to say. Her life was confined to the second floor of a house in Zakir Nagar pretending her husband was away in the Gulf and once a week making a long journey with you and her two children to the jail, waiting two hours, meeting her husband for five minutes and returning home. Later, she would make rounds of courts, lawyers' chambers and occasional meetings we organized.

She must have felt so terribly alone. She always seemed to feel that none of us could fully understand her situation. I am sure the entire experience must have made her stronger but unfortunately did not deepen her political understanding. It would not have lessened her pain but it could have helped to understand her sufferings and brought her closer to us like it brought you close to us. But even you took a long time before you made friends with us and you kept me on probation for more than a year.

I remember Geelani's children could also never really understand my role. Once when I was standing on the balcony of your Zakir Nagar home seven year old Aatif had asked: "Are you scared?" I asked him of what? He pointed to the lizard on the wall. I saw his earnest eyes and I knew I could not tell him a lie. "No, not if it is on the wall." Then he asked whether I was scared of fireworks. For some reason people were bursting crackers down on the street. Again I had to answer the truth: "not from here." He could not have got a very good impression of his father's latest saviour. And I have never been very good at building my image.

I must confess that I really did respect all of you because never did any of you ever show any signs of self pity or playing the victim. That is what made it easier to work without having any emotional pressure from the family. Only once did Aatif ask me whether he could go to meet his father in jail with me so he could give him a hug.

I remember the day after the court had sentenced Geelani to death and I came to Zakir Nagar. The atmosphere was tense and I asked: "What is this, we are feeling defeated already?" And everyone had managed a smile. Such was the spirit of Geelani's children.

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When we finally met Geelani it was well past noon. He was in a narrow room, behind bars, and a chasm separated us. There were telephones kept on our side and for a moment I thought we would be speaking to each other through the phones like they do in the prisons in Hollywood movies. Later he told me that it was soon after he was incarcerated that the prisoners had broken the glass wall and the phones because they did not like communicating to their family and friends through a machine. So I discovered that the only way of talking to Geelani was by shouting loudly standing along with fifty other visitors, all trying to communicate with their family or friends within five minutes.

It was on that day that I finally decided to take up the case. You will promptly ask why. You always wanted to know my real motives, inner most reasons and you probed me. I knew it was not out of ideal curiosity. After all, your brother's life in many ways depended on my decisions. Also you wanted to understand the mind and heart of a 'madcap' Kashmiri Pundit woman who had decided to take up the case not for a fee but as a cause. It was a strange experience and you were trying to understand.

You must be impatient for an answer: why did I decide to take up the case (as we called it) on June 13, 2002. There were five reasons:

First, I was moved by Geelani and Sanjay's friendship.

Second, both Geelani and Sanjay felt that the human rights activists who had taken up the case till that time had committed serious political errors while representing the four accused in the Parliament attack case and they were looking to me to undo the mistakes.

Third, the thing that was uppermost in my mind was the fear that an innocent Kashmiri Muslim accused of terrorism would not get a fair trial at a time when the Sangh Parivar was in power at the centre. At our first meeting Geelani had told me that the Special Cell police station reminded him of a RSS office and not a police station.

Fourth, a stubborn love for my country that is based on faith in our democracy.

Fifth (and perhaps the most important of all) was Geelani's trust in me.

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There now you have the answer. But who can tell the unconscious motives and intentions. Perhaps it was just a political challenge to save a man from the gallows under very tough conditions.

I Decide to Represent Geelani but Deny His Muslim Identity

I knew that if this case was treated just like another "case" to be fought inside a courtroom, we could not hope to win. The police had carried out a vicious campaign against Geelani in the media and they seemed to have singled him out.

I made a power point programme on the vicious media campaign against Geelani and sent it to Amnesty International in London. It was my first attempt at high tech human rights work! It was after seeing that power point programme that Amnesty International issued an Open Letter to the then Law Minister stating that they were concerned that Abdul Rahman Geelani may not get a fair trial because of the pre-trial media campaign against him. They released their Open Letter a few days before the trial began.

I have a print out of the power point programme in front of me. I remember that you showed so little enthusiasm for the programme that I had made sitting up for three days and three nights.

The slide show begins with a series of photographs trying to present a human face of the man. The first one shows Geelani standing with his mother, Aarifa and two small children. There are big sunflowers in the foreground. The caption below the photo reads: "Abdul Rahman Geelani with his family in Kashmir. His wife, Aarifa is in blue without burqa". You must have been angry with that description but at that point you did not know me and you swallowed your anger. Now you would ask "does a man with a wife in burqa mean he is a terrorist?"

The next photograph is a photograph of around 20 young men standing with a tent and blue mountains behind them. Sanjay is also in the photo. Geelani's face is circled with a red pencil. Below this photograph is written: "Abdul Rahman is doing PhD on 'Autobiographies Written by Indian and Egyptian Scholars'. He is seen here with fellow research students of Delhi University." I remember asking Sanjay what Geelani's topic for his PhD was but

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Sanjay was reluctant to answer and mumbled that it was something about comparative biographies and stopped. I did think it a bit odd but we were working under pressure, so I put aside the question. It was much, much later that you told me that it was to be a comparative study of Indian and Egyptian biographies of Prophet Mohammad.

There are other photographs, of Geelani playing cricket, another of him with his little daughter and the baby, must be Aatif. After the photographs came two paragraphs written by Sanjay on my request entitled: My friend, Abdur Rahman. It is a moving description of his friend but not entirely accurate. He fails to mention that Geelani's humanism is inspired by Islam.

Both Sanjay and I were aware that the reason he was being framed was because he was a Kashmiri Muslim and yet we did not dare to focus on Geelani the Kashmiri or Geelani the Muslim. That is why we did not circulate Geelani's mother's appeal in which she had said how she has brought him up in accordance with Islamic values. Vrinda went to the extent of even refusing to make an application on behalf of Geelani for permission to take a copy of the Holy Quran which you had deposited in the court and the judge had refused to let Geelani take it to his Cell. Vrinda thought that making such an application would further prejudice judge by giving an impression that Geelani was a devout Muslim and so a fundamentalist. I denied his identity and she denied him an important source of comfort. All in the name of saving him!

I have just read the first Appeal made on behalf of the All India Defence Committee for Syed Abdul Rahman Geelani. The Appeal was very carefully worded and signed by the Chairman of our Committee, Prof Rajni Kothari. The Appeal states that the Committee is concerned about the lowering of human rights standards by the war against terrorism and goes on to state that Geelani was a "victim of narrow prejudice and communal hostility". The appeal is for protection of civil liberties of an individual citizen and also expresses general concern for the protection of the values of justice, freedom and liberty.

I now understand why you did not show any enthusiasm at the time. I always was a little irritated by your lack of interest for my

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efforts but now I realize that it was not the effort that was lacking but clarity in politics. In contrast, Geelani himself was always clear about his politics. Remember, his message I smuggled out of the jail for the first meeting of the Defence Committee? When he asked me whether I liked his message he had a twinkle in his eye, because he thought I had not understood his formal, old fashioned Urdu. The statement reflects Geelani's politics and his personality, doesn't it?

I am reproducing the translation of his statement so that we can look at it again.

> Respected, members of the defence committee,
>
> I am overjoyed to know that you have together decided to stand against injustice. You are not defending an individual but also making an important effort to preserve and invigorate the values of democracy and justice. Coming at a time, when fascist forces are out to strangle the flag-bearers of peace and justice, your effort is both an act of compassion and courage.
>
> In these times, when the government and non-government apparatus is being brazenly used to decimate the ideals of fair play and justice, when oppression has become the order of the day, your decision to stand up is no less than walking on embers. I salute your courage and offer my heart-felt thanks.
>
> And humbly, I would say that along the road, you would need patience, perseverance and unwavering commitment, to keep you going. For there are conspiracies to vitiate the hearts and minds of the masses by means of propaganda and you need to remember that.
>
> Regarding a solution for the Kashmir dispute, I have always been for a peaceful solution, which considers the popular aspirations. I have been a supporter of the efforts for a peaceful resolution and have tried my bit in this direction.
>
> Terrorism, be it leashed by the state or parties outside the state, I have always considered it condemnable and have clearly condemned it. Murdering innocents, raping women, perpetuating injustice, these are the worse kinds of terrorism. Every effort needs to be made every step needs to be taken to end terrorism. My beliefs and my actions have always pointed in that direction. Even today, I firmly believe that.

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The lofty prison walls, the torture I bear in their confines, will fail to weaken or erase these beliefs of mine. I borrow from a poet his verse that echoes my feelings:

'Kisi deewar ne sail-e, junoon roka nahein ab tak
Yeh misra qoyee majnoon likh gaya, deewar-e-zindaan par'

(Never could walls stop, the march of passion,
On a prison wall, thus wrote a mad heart!)

I thank you once again. I pray you succeed. For a man imprisoned is not capable of more.

Regards,

Syed Abdul Rahman Geelani

Tihar Jail No 1.

Reading these lines now I cannot help but smile. The lines seem to be written by an old, mature political prisoner giving advice to younger people on how to carry on the struggle. There is no sentimentality, no self-pity and a clear statement of his political beliefs. He speaks of fighting against fascism and terrorism by strengthening democratic institutions. He does not speak of communalism because he does not wish to be seen as a victim. He states his views on Kashmir because he always saw himself as a Kashmiri political prisoner. It is interesting that he always emphasizes democracy, not secularism.

On the day he was sentenced to death he said: "By convicting innocents you cannot suppress feelings. Peace comes with justice. Without justice there will be no democracy, it is democracy that is under threat."

When I look back on our campaign, I realize that the most political lesson I learnt was about the relationship between secularism, democracy and Indian nationalism.

Most parties and organizations who call themselves left, progressive, secular and even democratic do not recognize the right to self-determination of the minority nationalities living within our borders, because they do not recognize India as a multi-national state. I knew that. But I did not realize that the two traditional

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Communist parties would actually cppose even the demand for fair trial for Geelani. I was not really shocked by their indifference to principles of human rights law, because traditional Communist parties have not been concerned with human rights jurisprudence. But I did think they would have some concern for a Kashmiri Muslim being tried in an anti-terrorist court, in the midst of the war against terrorism with a right wing Hindu government in power. I was counting on their commitment to secularism.

When Sanjay told me that the DUTA had passed a resolution condemning Geelani, I was shocked. That resolution was passed barely four days after you, Aarifa and the children were released from detention, and Geelani was still there being tortured at the Special Cell police station at Lodhi Road.

I often think about those early days after Geelani was arrested. It must have been so frightening and so lonely for you all. And how much more painful it must have been to know that the teachers' union to which Geelani belonged was demanding that he be punished instead of fighting for his right to a fair trial.

When we were together I would often think to myself how I could offer you some solace. I always felt so inadequate because there was really nothing that I could say that seemed appropriate. And so on one occasion, I thought I would read out poems of Nazim Hikmet, the Turkish poet who had spent 35 years in jail because he was a Communist. I thought his words would have meaning for you and I read out his "A sad state of freedom". Let me reproduce it for you:

You waste the attention of your eyes,
the glittering labour of your hands,
and knead the dough enough for dozens of loaves
of which you'll taste not a morsel;
you are free to slave for others –
you are free to make the rich richer.

The moment you're born
they plant around you
mills that grind lies
lies to last you a lifetime.
You keep thinking in your great freedom
a finger on your temple
free to have a free conscience.

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Your heart bent as if half-cut from the nape,
your arms long, hanging,
you saunter about in your great freedom:
you're free
with the freedom of being unemployed.

You love your country
as the nearest, most precious thing to you.
But one day, for example,
they may endorse it over to America,
and you too, with your great freedom –
you have the freedom to become an air-base.
You may proclaim that one must live
not as a tool, a number or a link
but as a human being –
then at once they handcuff your wrists.
You are free to be arrested, imprisoned
and even hanged.

There's neither an iron, wooden
nor a tulle curtain
in your life;
there's no need to choose freedom:
you are free.
But this kind of freedom
is a sad affair under the stars.

I do not remember your reaction to this poem. You would have probably liked its anti-imperialist politics even if you did not vibe with its understanding of class exploitation. I have been reading the social-economic and political writings of Syed Abul A'la Maududi. I can see the influence of his writings on you. He was not really concerned with problems of poverty and social justice. I recently read a Pakistani scholar's critique of Maududi's politics: "Maududi's account of 'social justice' and economic measures for an egalitarian society are either lukewarm or decidedly conservative. In the objectives, and priorities of the state, the consideration of material welfare of the people and social change oriented towards egalitarianism barely finds any place of signi-ficance." You always had some problem understanding the meaning of class struggle, didn't you!

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Then I read out another of Hikmet's poems called "Advice to our children". I had read it many, many times in the past and it had an appeal to me.

Be naughty, that's right.
Climb up sheer walls,
Up towering trees.
Like an old captain let your hands direct
The course of your bicycle.
And with the pencil which draws the cartoons
Of the master of Religious Knowledge,
Demolish the pages of the Koran.
You must know how to build your own paradise
On this black soil.
With your geology text-book
You must silence the man who teaches you
The creation began with Adam.
You must recognize
The importance of the Earth,
You must believe
That the Earth is eternal
Distinguish not you between your mother
And your mother Earth.
You must love it
As much as you love her.

You were absolutely silent. And I was shocked when I read the line "Demolish the pages of the Koran". It is true, for me religion is inextricably mixed with superstition. You just have to watch Q TV, Astha, Miracle Net or God. They are selling miracles, promoting ignorance and exploitating people's insecurities and fear. But this was not only an attack on the superstitious side of religion but also on the basic faith. I know how you yourself have fought against superstitions as has your father and I had also seen how your faith had given you and Geelani an inner strength and preserved your humanity in the face of barbarism. I could not expect you to draw any comfort from Nazim Hikmet. I suddenly saw that kind of secularism from your eyes. It was the same secularism that had denied the right to a fair trial to your brother. I was shocked by the

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intolerance of Hikmet's secularism. I could not identify with such an interpretation of secularism.

Just a week ago I was sharing my experiences with Amit Bhaduri the economist who had come to Goa and he remarked that he knew about the problems of secularism in Turkey but he had not thought that the same thing applied to secularism as practised here in our country.

My experience of our campaign made me rethink about the nature of the secular experiment in India and I realized that I must look at the history of secular nationalism in order to understand why it has often been used as a tool for repression of democratic aspirations of people.

I do not think that secularism is inherently undemocratic or intolerant. If I look at my own upbringing I feel the secularism practised in our home made us much more tolerant towards people from different faiths and beliefs.

You will admit that in the forefront of the campaign for Geelani's acquittal were those Communists and leftists whose interpretation of secularism was different from those who wanted Geelani punished. These were the teachers who had the courage to speak out on Geelani's behalf even though most of them did not know him personally.

Secularism and Democracy

Of course you were not thinking about secularism and democracy outside the gates of Tihar Jail that day when you saw a small group of Delhi University teachers trying to meet your brother. They had come along with a lawyer, N D Pancholi. He was the first lawyer to try and reach Geelani inside the jail.

I asked these teachers what had made them decide to go and visit their colleague. Tripta Wahi of Hindu College told me her story. She told me that Ali Javed, from the Urdu Department, a colleague and friend of Geelani's had phoned her and informed her that Geelani had been active in the teachers' union and was hoping the union would take up his case. Geelani did not know about the DUTA resolution and was confidently waiting for his union leaders

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to speak up for him. Tripta, her husband Vijay Singh and Vinod Khurana are all Communists while Anand Chakravarty is a liberal; they went to visit Geelani in jail along with Pancholiji who has long been associated with the radical humanist movement. All of them are deeply committed to secular ideals. That is how you found them that day standing at the jail gate trying to find out where Geelani was lodged.

When the four teachers and the lawyer arrived at Tihar Jail, they could not locate Geelani. They were sent from jail to jail till they reached a point when they were wondering whether Geelani was alive at all. When they finally located him, the jail authorities did not allow the teachers to go inside; so, that day Pancholiji alone went to see Geelani.

Pancholi reported to the group of teachers that Geelani had made the following five statements:

1. That he was innocent
2. That he was tortured
3. That he knew Mohammed Afzal and Shaukat Hussain who were fellow Kashmiris
4. That he wanted democratic organizations, especially the DUTA to take up his case
5. That he was being framed.

I know you were there and had watched the scene from a distance. It took these four senior Delhi University teachers and a lawyer, one-and-half-hours to draft a statement for the press that day. They leaned against their car, outside the jail gates, and argued and disagreed and debated on each word. Let me quote Tripta herself on the incident:

> I said we should make a press statement. It needs to go to the Press. I tell you what hit me very hard. To me it seemed that an atmosphere was being created in which it would not be possible for anyone to stand up, to speak or to say anything. The way the hysteria had been created at the national level that it would make it impossible for anyone to stand up and speak out.
>
> I said we need to make a press statement on the basis of the four or five statements Geelani has made. There were

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differences between us on how we should frame the statement. It took us an hour and half to frame the statement standing outside the jail leaning on our vehicle.

I said we can at least say he is saying he is innocent. We are not saying that he is innocent but he has a right to be heard. With great difficulty we put together those five lines. I was absolutely certain that if we did not do that right there it would never have happened. We signed the statement. All five of us. Then Vijay and Anand typed it out and we all signed it again. Vijay and Anand faxed it to all the papers. The next day we eagerly checked all the papers but no one had carried the statement.

It seems a bit silly now but I think it took a lot of courage to have done what they did. And the remarkable thing was that none of the teachers knew Geelani personally so their courage was a reflection of their ideologies and beliefs.

Oh! I must not forget to tell you what Pancholiji told me about that first meeting in the jail with your brother! He said: "He looked just like a child and kept telling me he is not guilty and I was convinced."

If you look at the composition of the people who supported our campaign for Geelani's acquittal in the University you will see it was entirely made up of individuals, organizations and parties firmly committed to secularism:

1. The teachers of Democratic Teachers Front (DTF) who fought with their union and won the right to campaign for their colleague even though the Union leadership had decided not to support the campaign.
2. The teachers who belonged to the left but opposed the CPM including the teachers who were sympathetic to Naxalite ideology.
3. The liberals, the feminists and the socialists.

Then there were the teachers who opposed our campaign:

1. The teachers who owed allegiance to the Sangh Parivar.
2. The teachers sympathetic to Congress or members of the Congress Union.

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3. The office bearers and some members of the DTF.

It is true that a majority of teachers remained silent. Among those who were silent but sympathetic to our campaign were the Muslim teachers. Their silence reflected their fear, opportunism and sometimes ignorance.

You were always angry with the Muslim teachers for not speaking out while I always felt that their fear was justified because of the fact they were a minority community. Remember, when you did not get admission into MA Arabic at Zakir Hussain College and I went to speak to the Principal, Hashmi Saheb, I asked him why he had so much fear. He told me he had received so many letters, all hate mail, after Geelani was arrested. He had even replied to those letters which had been signed, explaining that the College was not a madrasah! I asked him why he had not told the other teachers. He did not answer. Finally he said he had cause to be frightened with a surname like "Hashmi". He had always been a part of the left circle but he had not been able to share his fear and anguish.

When we came out of the College after Hashmi Saheb promised to give you admission we had an argument. You remember? I was angry with the teachers who belonged to the left for not being able to reach out to Hashmi Saheb and you were angry with Hashmi Saheb for not being able to speak out.

We had an argument that went something like this:

Nandita : If Indian Muslims face such venom and hate every day how can they speak out?

Bismillah : That is why they must learn to stop being scared and speak for themselves.

Nandita : But how can a minority speak out if they have no support from members of the majority?

Bismillah : It is precisely because there is no one to speak for them that they must learn to not behave like mere victims.

And then I realized that as a woman, a feminist, how could I argue that the victim should not speak for herself? Muslims had to take responsibility for themselves and not keep apologizing for being Muslim, or behaving like mere victims. I also realized that the left could not set themselves as the "protectors of minorities"

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because it inevitably led to a patronising attitude which undermined the community's dignity and self respect.

It was from our discussions and the experiences from our campaign that I realized that the gap between Hindus and Muslims in India had widened to a point that we would have to confront our past assumptions about the way we practised secularism. It was this painful realization that prompted me to take an appointment with Syed Shahabuddin, President of the All India Muslim Majlis-e-Mushawarat, to ask him to give a statement in support of our campaign. He responded by giving me a signed statement in solidarity with the campaign of the All India Defence Committee and appreciating Mr Ram Jethmalani's decision to take up Geelani's defence. However, he did not release the statement to the media. He insisted that we do it.

That is how Rona found himself doing the rounds of newspaper offices and landed in *The Asian Age* office to give the statement to our friend Seema Mustafa. When she read the statement she reacted angrily. She told him: "So far Nandita has been carrying the campaign in the right manner, why is she communalizing it now?" This was in September 2003. It was around the same time that Noam Chomsky issued a statement in support of the Delhi University teachers' campaign for Geelani. All the papers in Delhi and Srinagar carried Chomsky's statement. None of them reported Syed Shahabuddin's statement of solidarity.

I must confess that two decades ago when my father had accepted to be on the editorial board of Shahabuddin Saheb's *Muslim India* I had been uncomfortable. My father had been criticized by our secular left friends for joining hands with a communal Muslim. I can imagine a position that a secular fundamentalist may logically take that he or she would have nothing to do with religion in the public domain. But these same friends were happily attending meetings by Christian human rights groups in Indian Social Institute, a Jesuit institution. A Christian human rights group in the aftermath of the Staines murder was politically acceptable but not a Muslim organization fighting for Muslims even though the prime targets of the war against terror were the Muslims. Thanks to you I was beginning to see things a bit more clearly.

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While you and I were debating the issue of Muslims, some members of our group and I were debating on the role of the CPM. I remember someone from our group saying that BJP's stand and the CPM stand was the same. I think that is where our friends make a mistake. The BJP is ideologically against democratic norms and principles, CPM is not. After all, many teachers who were members of the CPM or sympathetic to the party supported our campaign. Many members of the DTF such as Nandita Narain and Madhu Parshad fought long and hard within DTF for their right to fight for Geelani's right to a fair trial.

Teachers sympathetic to the CPM in Jawaharlal Nehru University did not hesitate to donate generously to our campaign and even in West Bengal, teachers led by Malini Bhattacharya actively supported our campaign. The All Bengal University Teachers' Association passed a resolution demanding a fair trial for Geelani.

I think the campaign brought together teachers from different warring camps and for once drown their sectarian differences. Of course there were those who could not overcome their sectarianism such as Kumar Sanjay and he withdrew himself after Geelani was sentenced to death. But others continued to have their violent political disagreements but yet continuing to work together. You remember the heated arguments between Nandita Narain and Tripta all the way from Chandigarh to Delhi. We had all gone to Chandigarh to speak at a function organized by Punjab University teachers in solidarity with the Delhi University teachers' campaign. You and I enjoyed hearing all these debates sitting at the back of the car. The divisions did not undermine the campaign; in fact the discussions enriched it because people could see how the various groups had come together out of genuine concern and solidarity for their young colleague behind bars.

Do you remember the meeting organized by the Delhi University teachers at the Arts Faculty on September 25, 2003, a few weeks before Geelani's acquittal? The hall was full and students and teachers were sitting on the floor and standing by the wall and on the window sills. More than a thousand students and teachers sat through the meeting. It was a memorable meeting and many said such a political meeting had not taken place for a long time. It

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began with a poem by Faiz Ahmad Faiz (Geelani's favourite poet). The first line was *Aaj bazaar main Pa-Bajaulan Chalo.* It was sung by Nandita Narain in her exquisite voice, while Neeraj Malik recited the words in English.

I got the longest and loudest applause. It was not for me but for Geelani, the subject of my speech. They were supporting an innocent member of their community who had been framed and sentenced to death. They admired the young teacher who had shown exceptional courage by taking on the might of the Indian state. Geelani had become a symbol of resistance.

It was a wonderful culmination of their campaign because next month on October 29, 2003 Geelani was acquitted by the Delhi High Court. What wonderful moments those were! The teachers waiting outside the gates of Tihar Jail and then triumphantly escorting him back to his college where he truly belonged.

Geelani's Acquittal Celebrated as a Miracle

I remember October 29, 2003 vividly. It was just a few days before Eid.

For us, Kamini, you and me the tension was tangible. I did not really hear the judges utter the word "acquit" because before I could fully understand what they were saying I found your arms around me in a tight embrace right in the middle of the court in front of the judges! And then a very embarrassed but pleased Kamini got a hug as I managed to bow out of the courtroom. And from that moment the whole world seemed to be sharing our happiness! We went to Mr Ram Jethmalani's house and he hugged us and said it was the happiest day in his life.

Perhaps the purest joy was Mayori's. I wish I had a photo of Mayori and you on that day. Her hug was an act of pure love, friendship and solidarity with you, as a Naga for a Kashmiri. For us, the joy was mixed with a sense of our own achievement. And for the rest of those who heard the news it was a vindication of their faith in Indian democracy. They celebrated the acquittal of an innocent man as if it was a miracle and did not realize the irony of it.

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And people were phoning from all over India. People who had lost contact with me for decades made an enormous effort to get my new telephone numbers and promised me lunches, dinners, kebabs and showered their blessings and affection.

I rushed to Tihar Jail to tell Geelani the news. He had made me promise that whatever the news I would tell him personally. He was in a daze.

The news of his acquittal spread around the Tihar Jail and there was an eerie silence. Later, Geelani told me that the effect of the media reporting along with the way jail authorities projected him had resulted in everyone thinking of him as a hardened terrorist who would spend the rest of his life in jail. On one occasion a policeman from Tamil Nadu escorting him after a Mulaqaat told him in broken English: "You dangerous terrorist" and then with the help of a lathi mimicked an old man walking bent over and said "not out", meaning he would never get out even when he got old. Geelani, always a teacher, told him he had no right to prejudge the case but knew that the havaldar could not understand either his Urdu or his English.

The jail authorities had also told him that he would never get out of jail. But that day they were shocked. After I met him in the jail the Superintendent called him and this time no one told him to take off his shoes. The Superintendent offered him a chair and they sat across each other. The officer requested Geelani not to expose the conditions inside the jail or they would get into trouble and asked him to forgive and forget all their excesses. He informed Geelani that his papers had arrived. If you remember, Bismillah, we had paid the fees right away. I did not want that Geelani have to spend even an extra day in jail.

Geelani packed his books and papers and distributed his extra clothes and books and asked the Head Warden's permission to distribute sweets to his fellow prisoners so the warden ordered *jalebis*. The Head Warden then allowed Geelani to personally distribute the sweets to everyone in the High Security Ward No 6. Even before the Cells were opened the other prisoners were shouting "Mubarak" and expressing their happiness. As he shared his happiness with his fellow prisoners they embraced him.

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But for Geelani the joy of acquittal was mixed with sadness when he heard that his co-accused Afzal and Shaukat had been sentenced to death. He felt they too had not been given a fair trial.

Remember the waiting outside the jail gates that night? We must have been more than a hundred people including the media, Geelani's friends, colleagues waiting for him to walk out of the jail gates. I knew someone was trying to stop his release. You were afraid that your brother might be released in the middle of the night and if none of us were there he would not know where to go; and his life could be in danger. He did not know your new address and I had not even thought of telling him mine when I had met him that afternoon. That is why you had stubbornly insisted on waiting till midnight outside the jail gate. You had not been able to break your fast and it was only late at night that we got some food. That night you and I shared some hot chapatis and dal brought to us by four young journalists who stayed on in the hope of getting some exclusive footage. I am sure we will preserve the memory of that meal outside the gates of Tihar Jail for many years to come.

The next morning we were at the jail gate again. Geelani got his final farewell at the Deori where prisoners defied jail authorities to give him a last embrace and appeal to him to do something for those he left behind; and some even advised him to stand for elections and do something for the country. They knew they were losing a friend who had had the courage to speak out against the jail authorities every time they committed their barbaric acts. Geelani gave some money (around Rs 500) to the Head Warden who promised in return not to commit any atrocities in the remaining two months before his retirement.

Ever since Geelani's acquittal was announced in the media my phone never stopped ringing. It was two days of celebration. And then suddenly the celebration stopped.

A Kashmiri Speaks Out

Within a few hours of his release Geelani addressed his first media conference. He must have given it some thought while he was in jail because after his release he had no time to think. Straight

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from the jail we had rushed him to meet Ram Jethmalani who was about to leave for Bombay; then there was a rushed meeting with his wife and children before going to the Constitution Club where the room was crowded full of eager media persons and a group of his colleagues and friends from Delhi University.

I have the exact words with which he addressed the media:

> I would like to thank all of you... I want to thank you. First of all I would like to thank the Chairman of the All India Defence Committee and its members. Despite all the difficulties and the kind of atmosphere – they defended me. But it was not only for my defence but for the protection of democratic values in general that they took up my case. The result is before you. I would like to thank my colleagues of the University and friends who have been with me during this whole period. I would like to thank my lawyers, especially Mr Ram Jethmalani who took up the case in the High Court despite opposition to it and violent opposition by undemocratic and fascist forces. And other friends who showed their solidarity, their love and warmth.
>
> The question that you will all be wanting to ask me is how I am feeling at this moment. I think all these difficulties and pain have made me stronger and more determined to fight for the rights of people of Kashmir and fight for justice for those innocent Kashmiris who are languishing behind bars.
>
> (Loud applause by Delhi University teachers)
>
> I was not alone in this fight. My friends and others who believe in democratic values were with me. And you can see the result before you. But those innocent Kashmiris have no one to support them. And they become victims of criminal elements, of criminal mentality.
>
> I think and feel it's very important to say that judiciary is being politicized and this politicization of judiciary has robbed it of that credibility which one would like to attribute to it.
>
> Judiciary is being used by fascists as a vehicle to further their agenda and there is a nexus, a criminal nexus between the police and some people in the judiciary – which needs to be exposed for the sake of survival of democracy in this country. And this politicization of judiciary and criminalization of police is going to destroy this country. And I would like to appeal to people who believe in democratic values to rise to the occasion and put an end to this.

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For the moment that is all. If you want to ask any questions you may.

In the course of the question and answer session Geelani revealed that political prisoners were kept in cages and when their cells were opened they merely stepped into slightly larger cages. In winter, the cold damp fog entered through the bars and in summer, hot winds. During the rainy season the rain dripped through leaking roofs. On Kashmir he said the aspirations of the Kashmir people must be taken into account in any solution and he would respect whatever the wishes of his people were.

I remember you were standing quietly listening to every word. What were you thinking? I was silently admiring your brother's courage and political maturity. There was no personal bitterness or anger. He spoke as a teacher analyzing the situation. He did not speak about himself because he did not want anything to distract the media from his political message.

I was totally unprepared for the reaction to his press conference the next day. One of the first calls was from Kamal. He was furious that Geelani had attacked the judiciary. Also he said Geelani should not have spoken about Kashmir.

Unfortunately, Kamal's reaction was not an isolated one. Geelani was being chastised by his friends and well wishers to remain silent. There were those like his friends Sanjay and Anshuman who begged him to remain silent because they could not bear to lose him again. I know their fear was born out of real love and concern but they should have known that Geelani never acted on fear. But there were others who felt Geelani should have expressed his appreciation for Indian democracy and its institutions.

Those who had fought for Geelani's right to fair trial now denied him the right to freedom of speech and expression. They were not comfortable with his views of Kashmir and they did not care about the condition of other Kashmiri prisoners. They just wanted to make Geelani a symbol of triumph of Indian democracy while Geelani wanted to use his freedom to focus attention on the condition of other Kashmiri prisoners. In fact, even before he was acquitted he would often tell me that I should work for the release of other Kashmiris as well.

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Personally, I had no problem in Geelani's views on Kashmir. I think it is largely because of my long years of experience of working with Naga human rights movement and more recently, with the Naga national movement in the context of the Indo-Naga peace talks. I had visited Kashmir in 1990 as a member of a fact finding team and I could see the parallels with the North East, especially in the patterns of repression.

What I found very uncomfortable in this case was the fact that I was so often confronted with my identity as a Kashmiri Pundit. It would come up in most unexpected ways, leaving me feeling awkward, especially with members of your family whose first reaction on seeing me would be "she looks like a Kashmiri." And you would mischievously answer "she is!" I always wondered what you really thought about my origins, did it have any bearing on our relationship.

On Being a Kashmiri Pundit

I have no feeling of being Kashmiri or having any affinity with your culture, language or history. As you know I have always denied this identity. I could never really understand why my family members called themselves "Kashmiri" when they had no connection with the Valley and our ancestors had left the Valley seven generations ago. (I being the seventh generation.) The genealogical charts kept by the Pundas of Mattan clearly said that our ancestor, one "*Sitaram Hindustan gaya*".

We do not speak the language, know the customs or even their (or should I say our) history. This is all the more shameful because as a student of history and having a father who brought me up to look at history as almost revealed knowledge I should have been interested in the land of my ancestors. As a part of our MA History we had to take up a modern Indian language. I had chosen Tamil. Dr Meenakshi our teacher had expressed surprise that a North Indian had chosen to take up a South Indian language. She had expressed surprise that I did not know Kashmiri. And she was even more surprised that my father, his mother, her mother and even before that no one knew Kashmiri. Dr Meenakshi, a linguist, said she had not come across another community who

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had forgotten their language so quickly. We had lost our roots absolutely, completely and apparently without any regret.

And I was shocked to learn that even those Kashmiri Pundits who left the Valley after the armed resistance began in the 1990s were doing little to preserve their language or culture.

It is only recently that I realized the significance of this fact. The Kashmiri Pundit seems to have identified himself more with the Indian nationalism than Kashmiri freedom movement, with the Indian ruling classes than with the plight of the Kashmiri people. Faced with my Kashmiri Pundit identity, I picked up Sudha Kaul's autobiography in my aunt's house. It was a present to my aunt from Sudha.

The book is called *The Tiger Ladies: A Memoir of Kashmir*. What is shocking is that the only Muslims she describes are those who are her servants or subordinates: the shawlwala, the cook, the fish seller and farmers from her fields. She has no feel for the movement for *azadi* and the aspirations of the people, her people. As the first Kashmiri woman to get into the Indian Administrative Services I would have thought she would have had some understanding of history. She cannot return to Kashmir so she dreams of her secure childhood in the safety of America while Kashmiris are killed, tortured and put beind bars. The irony is that in her acknowledgements she writes: "Thank you Agha Shahid for saying 'This book must be published.' I will miss you for ever." Agha Shahid, the deeply sensitive Kashmiri poet, also lived in exile in the USA before he died. Agha Shahid must have felt her pain of being separated from her home and encouraged her to express herself.

But Sudha's book does not show that she is capable of feeling even a little of the poet's agony. How can Sudha not feel anything for the tragedy of Kashmiri Muslims? Shahid's poems reflect his concern for the sorrow and sufferings of his people. Each poem is an expression of his anguish. I want to quote from his collection called *A Country without a Post Office*. He writes in "The Blessed Word: A Prologue" :

> And the night's sun there in Srinagar? Guns shoot stars into the sky, the storm of constellations night after night, the infinite that rages on. It was Id-uz-Zuha: a record of God's inability,

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for even He must melt sometimes, to let Ishmael be executed by the hand of his father. Srinagar was under curfew. The identity pass may or may not have helped in the crackdown. Son after son – never to return from the night of torture – was taken away.

And will the blessed women rub the ashes together? Each fall they gather chinar leaves, singing what the hills have re-echoed for four hundred years, the songs of Habba Khatun, the peasant girl who became queen. When her husband was exiled from the Valley by the Moghul king Akbar, she went among the people with her sorrow. Her grief, alive to this day, in her own roused people into frenzied opposition to Moghul rule. And since then Kashmir has never been free.

And will the blessed women rub the ashes together? Each fall, they sing her songs. They create their rustic fuel for winter; they set fire to the leaves, sprinkle water on them as they burn, and transform them into fragile coals.

But the reports are true, and without song: mass rapes in the villages, towns left in cinders, neighbourhoods torched. 'Power is hideous/like a barber's hands'. The rubble of downtown Srinagar stares me from the Times.

I wonder whether she had read Shahid's poems. If she had could she have just "enjoyed" them as pieces of good writing without being able to share his sorrow?

Bismillah, I was deeply moved by the fact that you and Geelani always expressed your views on the question of Kashmiri Pundits without anger and always with compassion. I never found a trace of communalism in either of you. I remember Geelani relating to me some of the stories that Balraj Puri had told him about the atrocities were being committed on Kashmiri Pundits by the Hindu communities in Jammu. At one point of time the Shiv Sena and the BJP had even launched a "Quit Jammu" movement against the Kashmiri Pundits. Geelani was angry that this side of the story had never been written.

I myself had visited three of the 24 camps in Jammu in July 1990 as a part of a fact finding team. We had recorded that "the local people in Jammu were beginning to resent the presence of the refugees. So the BJP and Shiv Sena may no longer take up the cause of the refugees out of fear of losing their base in Jammu."

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The reason why these stories of the sufferings of the Kashmiri Pandits in Jammu never came out was because it did not suit the communal politics of either the Congress or the BJP. It suited everyone to portray the movement in Kashmir as communal but not focus on the role of Hindu communalism.

Now that I have had a glimpse of the society and movement in Kashmir I can say quite honestly, I am glad I am not a Kashmiri Pundit from the Valley. It cannot be easy. But if I had been a Kashmiri speaking Kashmiri Pundit with roots in the Valley, I hope I would have stayed in the Valley and made common cause with the movement, even if I was critical of certain aspects of it as Sampat Prakash has done.

Whenever I think of this larger than life trade union leader, and how he burst in upon our lives, I cannot help but smile. I remember the first time I met him he told me that he did not approve of my name because it was not a Kashmiri name. He could not believe I did not have holes in my middle ear and I could not even cook Kashmiri food. I told him I was married to a Naga and was now a Naga bahu! That was the only way I could justify denying my Kashmiri Pundit identity.

Sampat Prakash was proud to be a Kashmiri Pundit. He has always been immersed in the fight for the rights of the Kashmiri people. He can therefore claim to be Kashmiri as much as Geelani and you, because he had not run away. I hope one day we will be able to write his story and the story of the trade union he heads.

Sampatji so readily agreed to Balraj Puri's request to become a Defence Witness because he understood Geelani's agony, because he too had spent several years in Tihar Jail, and at least two years in solitary confinement because of his involvement in Kashmir's politics.

And the most remarkable thing is that his son has married the daughter of Mr Teng, the ideologue of the Panun Kashmir movement. Sampat Prakash never lets go of an opportunity to chastise his *samdhis* (son's in-laws) on their politics. No wonder he is ostracized by many in his community but also respected by many of the younger generation of Kashmiri Pundits.

Of course it was not very easy for Sampat Prakash. His house had been burnt down and he had to shift to Jammu. But he never

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allowed his personal loss to determine his political vision. He has been living in the homes of his Muslim comrades for so many years.

I confess what has left me feeling both hurt and confused is your own stand on Hindu-Muslim relations. I fully appreciate that in the beginning you were apprehensive that my frienship and solidarity may be a variant of 'Kashmiriyat' or 'syncretism' or national integration. Do you remember when we went for dinner to Karim's restaurant in Nizammuddin and I took a piece of kebab from your plate, you sharply reacted "Kya national integration ho raha hai?"

It was much later that you said you wanted to work with me and when I asked you why you said "you allow me to be myself."

You and Geelani were in and out of our home every single day. We could share so much. I think it was partly because of our shared love of Lucknow and Urdu culture but it was mostly because of our common political concerns. A week before your wedding Sebastian and I had taken both you brothers to the tailors to get your sherwani stitched. In fact Sebastian, a Catholic Naga had chosen the embroidery because you were too shy to specify what you wanted! And then Geelani had brought the sherwani all the way to my home to show me how it looked after it was stitched. This was his way of including me in the celebrations.

We were all waiting to go for your wedding. But we were shocked when we were not invited. Suddenly we had become "the other".

Politics of Religion

The most disturbing part of our interactions was that in your society there seemed to be little space for relationships between Kashmiri Muslims and non-Kashmiris or non-Muslims.

I felt your family members did not have a way of interacting with non-Muslim society. I felt this keenly in the days after Geelani was shot. Your family members came down from Baramullah and I would see them at the hospital every day. It was strange but no one tried to talk to me or even wish me. When seven students of Jawaharlal Nehru University cheerfully came to the hospital to donate their blood there was no response. It was much later when

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I asked Geelani whether it was not a custom in Kashmir to thank people who donated blood, he was really shocked that no one had bothered to. Sebastian too expressed surprise that no member of your family had even talked to him even though he, Mayori and other Nagas had expressed their solidarity in so many ways throughout our campaign.

And then your mother came to Delhi and stayed for a month with Geelani after he was discharged from the hospital. I was really shocked and hurt that she did not bother to even visit Sebastian and me. I could not believe she would not want to meet the people who had stood by her son and his family. I felt, by her not meeting all of us, something significant in our campaign would be lost — the affirmation of our common humanity.

I took the initiative to reach out to her. I sent her photos of our group with Geelani. I think the photos showed the warmth of the relationship between her sons and our "gang" — Vinod, Rona, Jatinder, Mayori, Sebastian and me. There was so much laughter, so much love and trust. It was obvious even in the photos.

And I remember the day when she did finally come to our house and met all of us. It was December 5, 2005. We were all there. I think she enjoyed meeting our group and when we embraced I felt her warmth. And then we sat together and watched the video of Geelani's thank you party where Mayori and the Delhi University teachers were dancing to the loud revolutionary songs being sung by our young comrades from Jawaharlal Nehru University. She giggled because it must be a novel experience for her to see women dancing in a non-segregated party — and that too for her oldest son! I shall always treasure the photo of her and me sitting together laughing, she embarrassed and I, enjoying the moment.

Then getting over her embarrassment she said: "They are all happy that my son is acquitted." She felt our warmth in her mother's heart and then she confided "I got blood pressure and diabetes because of the tension." How unbearable must have been her suffering and excruciating her pain.

I think even you and Geelani were a little taken aback with her reaction when she told me as she left: "I am entrusting my sons to you." I was really moved.

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This interaction proved to me that her initial hesitation to meet was a reflection of some other social-political factors. I felt this because I did not find this kind of attitude or behaviour in other Kashmiris who are always so hospitable and welcoming even in normal circumstances. On one occasion when I phoned Nisar Mir's house to talk to Sampat Prakash, his small daughter who had picked up the phone asked who was speaking. When I gave my name she replied: "Oh! our own Nandita Didi!" She had not even met me.

On several occasions Sampat Prakashji had brought his trade union members to our house. They felt quite at home and would phone to wish us or even visit our home in Delhi. I really enjoyed our interactions so full of warmth and mutual respect. In contrast, none of your family members developed such a relationship with any of us.

I believe that is a reflection of something deeper. I always look for the social, political and historical roots of a problem. I went into the debates on the relationship between Muslims and non-Muslims within Islam. I am sure I do not need to repeat them to you. I know that Prophet Muhammad said if any Muslim injures or abuses a non-Muslim he would personally bear witness against him on the Final Day. But the Puritans have practised the doctrine of loyalty and dissociation (al-wala' wa al-bara') which states that Muslims care for, ally themselves with, and befriend only Muslims.

I came across the Constitution of the Indian Jammat-e-Islami Hind. It is a 1977 edition and has a specific injunction under a heading 'desirable norm'. Article 9(vi) states: "sever contacts of love and friendship, but not the general human relations, with transgressors as well as iniquitous and God-neglecting people, and should establish contact and connection with righteous and God-fearing people."

I wonder whether the Jamaat in Kashmir has a similar provision?

The influence of Jamaat kind of ideology is obvious on a part of the Kashmiri movement for self-determination. I agree with you that it is not a communal organization and that it did serve to restore dignity and courage into the people. However, the negative influence of its ideology has to be weighed against its positive aspects. I believe it has a very negative stand on social issues

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such as relations between men and women, Muslims and non-Muslims. It also has a very conservative interpretation on all aspects of culture. Your attitude to films, music, photography and women have been deeply influenced by Jamaat. And I would like to say it is Jamaat-e-Islami of Kashmir, because in Kerala the organisation has a different face. In fact the sharp debates between you and Javed were very interesting. Javed comes from a similar ideological background but his understanding of culture is so much deeper. Even you were shocked to learn that Solidarity, Jamaat's youth wing in Kerala, organizes film festivals! In fact till last year Maududi's book on Purdah was not even translated into Malayalam! It may be that in Kerala they have the Shafi school of jurisprudence, and therefore the position of women is so much more equal while in Kashmir you have the conservative Hanafi school.

I have no problem with Islam as a religion. When I read these words of Tariq Ramdan, grandson of Hasan al-Bana, I am truly inspired: "learn perseverance, which gives us the key to success: to stand firm in the face of people who trade in prejudice, who are responsible for oppression, and who spread hatred, while retaining the presence of mind to say, "Salam" "peace" and not give up one's efforts along the way, offering the brotherhood of one's soul and humanity to all people of conscience, from one's heart and in love, and inviting them to travel with one, training oneself to keep on resisting and learning how to be a friend. Faithfully."

Bismillah, my friend these words reflect the inherent tolerance of Islam — a tolerance which I did not always find in my encounter with Kashmir in the course of our camapaign for your brother's acquittal.

Building Bridges

Bismillah, having said all this I also know that there is genuine cause for suspicion and mistrust, between your people and mine; between Kashmiris and Indians. You yourself have often told me that your people are suspicious of everyone. They even suspected my motivations. They could not believe that an Indian can have genuine feelings of solidarity for Kashmiris. I found the cynicism of Kashmiris very disturbing. Invariably, their initial reaction to our

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campaign would be "if one more Kashmiri dies, so what." I do not think it reflected their indifference to fellow Kashmiris as much as their total lack of faith in the possibility of real friendships between Hindus and Muslims, Kashmiris and Indians.

I do not know whether we can build bridges? Sometimes it seems almost impossible and other times it seems really possible.

It seemed possible the day Sampat Prakash forcefully took me to meet Prof Bhatt at the Hurriyat office in Delhi. I was moved by the warmth of the welcome I received.

But what deeply touched me was the day I spoke at a meeting of Geelani's Society for the Protection of Detainees and Prisoners' Rights (SPDPR). The meeting was on political prisoners and in my audience in the front row were seated Syed Ali Shah Geelani, Yasin Malik and Shabir Shah. I felt a deep sense of humility and shame. I had not even known how these leaders had been tortured and humiliated in Indian jails till very recently. Now they were willing to listen to me.

My one small gesture of solidarity of taking up the campaign for Geelani's acquittal had won me so much trust and warmth from these veteran leaders of the Kashmir movement who had faced so much cruelty and betrayal from my country. The leaders proposed that the President of the Kashmir Bar Association and I co-chair a committee to fight for the release of Afzal who had been sentenced to death without a trial. The applause from the audience and the warmth from the Kashmiri leaders compelled me to promise that I would somehow make up for my past indifference. I hope to keep that promise.

But how do we work together, you and I, a Kashmiri Muslim and an Indian socialist feminist? What are the obstacles in our way? While we were working together in a campaign for your brother's acquittal it seemed easy. But afterwards why has it proved so difficult?

I believe we can work together if we share some common values and have broadly a common framework of analysis. What are the sources of oppression and what are we going to fight? I am sure we agree on an anti-imperialist politics but we have to define what imperialism means. Is it only an anti-American feeling or is it an understanding of the system as a whole.

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We also agree on the authoritarian nature of the Indian state and our fight for Geelani's acquittal was based on our commitment to fighting state abuse of power. However, do we really have a common understanding of the nature of the state? If we are fighting against the Indian state what do we wish to replace it with?

Patriarchy

That brings me to the question of our vision for a future society. What kind of society or community do we aspire to have? We had our bitterest disagreement when Geelani told me to get his children into a good school. This was the request he made after he was sentenced to death. In fact before he was arrested he had been looking for a school for Nusrat, so he could bring her to Delhi.

I kept my promise to him and got his children admission into a good school. Both the children really liked the school and I made sure that the school would be able to cope with their vulnerability since their father was India's most well known "terrorist". He was still in jail. But then Aarifa came and told me that I should get admission only for her son. You also did not like the idea of your brother's daughter going to a co-educational school.

I do not know whether you can ever understand my anguish when I refused to get only Aatif admitted and let both the children continue to attend their respective schools in Jamia Nagar. But I felt I could not be a party to such discrimination against girls. When Geelani was released one of his first acts was to ask me to get both his children admitted into that school. His daughter is the first girl in your family to study in a co-educational school. And Nusrat has had the confidence to assert her Kashmiri Muslim identity even in her school.

You had very nearly succeeded in depriving a girl from having a future. You had very nearly condemned her to a social imprisonment and taken away her only possible key to freedom. And what would you do to your own daughter, if you have one?

Take the question of burqa. You admit that it is not mandatory in Islam. And your brother's wife did not wear burqa because Geelani did not like it and she must have felt liberated as she had stopped

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wearing it in Delhi. She even appeared in front of national television without a burqa but with her head covered.

Our group was confronted with the question of burqa a few weeks after your marriage when Rona and Vinod were in Srinagar in connection with our Exhibition, 'Lies of Our Times'. I still remember, Rona excitedly phoned at night to say he had met Bis's wife, and I asked, "what is she like?" And he replied "all I saw was two eyes and we could not even hear her!" Of course when she came to Delhi we had more interactions and some fun together but once again an invisible wall came up as all interaction imperceptively came to a standstill.

Now that I have gone into this problem a little deeper I realize once again the influence of Jammat on you, especially the pernicious influence of Maududi's *Purdah and the Status of Woman in Islam.* I believe that is his most reactionary book and his views are demeaning to women. Unfortunately, these views are not his alone.

Bismillah, have you studied the fatwas given by the Permanent Council for Scientific Research and Legal Opinions? Let me give you a sample or two translated from the Arabic:

> *Question:* If I were in a foreign country and wished to send a photograph of myself to my family, friends, and especially my wife, would this be permissible for or not?
>
> *Fatwa:* Authentic traditions from the Prophet (S) have established the prohibition of depicting any being that possess a soul, whether human or not. Thus you may not send a picture of yourself either to your family or to your wife.

You know that even on your marriage you could not openly take photos. And whenever we have discussions you finally say you can do all this in the privacy of your home but you cannot do this or that out in the open. But then what is the difference between you and the secularists who say you can practise your religion in the privacy of your homes and don't bring it out in the public domain? As a feminist, I would tell you that whatever I do in the private sphere of my home I can do in public. If you do not believe in taking photos then do not take them secretly and oppose it in public.

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Let us look at the fatwa on women driving:

> *Question:* Under circumstances of necessity, is it permissible for a woman to drive an automobile by herself, without the presence of a legal guardian, instead of riding in a car with a non-mahram (e.g. in riding a taxi or with a chauffeur)? May God reward and bless you.
>
> *Fatwa:* It is impermissible for a woman to drive an automobile, for that would entail unveiling her face or a part of it. Additionally, if her automobile were to break down on the road, if she were in an accident, or if she were issued a traffic violation she would be forced to co-mingle with men. Furthermore, driving would enable a woman to travel far from her home and away from the supervision of her legal guardian. Women are weak and prone to succumb to their emotions and to immoral inclinations. If they are allowed to drive, then they will be freed from oversight, supervision, and from the authority of men of their households. Also, to receive driving privileges, they would have to apply for a licence and get their picture taken. Photographing women, even in this situation, is prohibited because it entails fitnah and great perils.

I know Islamic scholars have themselves criticized these fatwas that are demeaning to women. Khaled Abou El Fadl's book is a case in point. But he could not get his book published in Arabic. In India too there is an Islamic publishing house which is soon to translate and publish Amina Wadud-Muhsin's works including her "Quran and Woman". She is the woman who led prayers in an American mosque. The publisher has got threat calls. Remember I asked you to translate her work into Urdu but you were hesitant.

You will tell me that Prophet Mohammad respected women and recognized their rights. But my friend, that is precisely my question. Can this be Islam of Prophet Mohammad whose own wives, Khadeeja was an experienced business woman and Aisha rode on camels in the middle of battles? The most revolutionary message of Islam was the rights of women but Muslims have denied that heritage by denying their women rights.

Bismillah, you so often tell me that your mother, sister and wife want to wear the burqa, but burqa was never a part of the

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Kashmiri society. Even today when women come out to protest against the death sentence to Afzal, I see the majority of them do not wear burqas. The imposition of burqa and restrictions on women is the influence of Jamaat in Kashmir. I remember when I went to Kashmir in July 1990 as a four member fact finding team (all of us were women) I saw how Muslim women protested and I want to reproduce a letter that was published in *Daily Alsafa News* in Srinagar on June 9, 1990, entitled "Burqa Pahnne Ki Dhamki Akhir Kyon?" (Why the threat to impose burqa?) There were many such letters and we had reproduced them in our report entitled "Kashmir Imprisoned".

Here is the letter:

> *Jadoo Jehad azadi ki tehreek mei aisi baten dekhne ko mili hai jinka tehreeq ke Hureeyat ke sath koyi vasta nahi. Is lahe mashra aur samaj sudhar ki jo mohim yahan shuru ki gayi hai woh yakinan waqt ki ek ahem zaroorat hai kyoon ki Kashmir mei berahravi aam hone lagi thi. Sharab, jooa, aur badkari hamare samaj ke mathe par kalank SW kuchh kum nahi. Aisi bedadton se Qom aur milat ko nijat dilana qabile qadr kaam hai. Albatta aise kam anjam dene ke bad baaz halqon se aisee daraaz dastiyan hone lagee hain jo afsosnak hain. In mein khawateen ke burqon ki mohim qabile tawajoh hai. Main ek larki hone ke nate sharm-o-haiya ko ek zevar samajti hoon jiske begair aurat namukamal hai ek badkar aurat burqa pahen kar pakdaman nahi ban sakti aur ek pakdaman burqe ke begair badkar nahi ho sakti. Islam ne aurat ko barabar ka darja diya hai, unhe mardon se kam huquq nahi diye gaye hai. Shaahid Maqbul Batt ne taqta-e-dar par charhne se qabl jo interview diya hai, usme aur baton ke alawa waze kar diya hai, "jins ki buniyad par imtiaz ki mai taeed nahi karta, mtawazin o hum-ahang masher he qayam ke liye khawateen ka kirdar bhi itna hi ahem hai jitna mardon ka, mai Muslim masher mai murawij maujooda pardeh ke haq mai nahi kyon ke yei auraton ko gharon ki char diwari mai band kar det hai.*
>
> *Burqa khatoon ke liye ahsase kamtari ki nishani hai. Bhakaa jo mahzab aurat ko barabar ka darja de woh use ahsase kamtari mai mubtala hone ke liye kaise kahe, darasal purdah aurat ka libas aur dupatta hai ke burqa hai? Nange sar chalnewali khatton besharm kehalayi ja sakti hai. Magar burqa sharm ki koyi guarntee nahi hai. Burqa pahen kar rah chalnewali Khatoon kale bhoot se kam nahin. Burqa pahen kar khawateen ko bahar nikalne ki is*

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muhim mei baz naujawanon aur larhkiyon par jo junoon sawar hua hai who is liye kabile aman nahi hai kyon ke yeh jabari taur par kisi had tak shahari khawateen par lagoo ho sakta hai. Hamari abadi ki aksariyat deht mei rehati hai aur dehati khawateen burqa pahen kar zamindari nahi kar sakti hai. Srinagar aur dehati khawateen burqa pahen kar zamindari nahi kar sakti hai. Srinagar aur deegar qasbon mei bhi beshumar karobari aurate hai jo burqa pehan ke karobar nahi kar sakti hai le de kar ye jabari karawahi mehood tabqe ke liye rawa rakha ja sakta hai.

Mere bahi jo mujhe burqa na pehene ki surat me maut ke ghat utarne ya mera chehera maskh karne ki dhamki de rahe hai, who sabit kar rahen hai Islam talwar ke zor se phaila hai. Gar waqei mujhe qatl kiya gaya to mei Khuda ki bargha mei in Islamnawazon ko qatil gardanu gi ha agar mujhe Islam ke naam par tezab ya zehreele rang ka shikar banaya gaya to mai aise Islam ko khirbat keh kar Christian mazhab iqtiyar karoongi lekin kala bhoot ban kar ahsase kamtari mei rahena qabool nahi karoongi.

Sara Bano

English translation:

During the struggle for freedom we have witnessed things which have no bearing on the movement. There is a need for social reform and correction in Kashmir. It is a need of the hour. Gambling, alcoholism and immorality are a disgrace to our society. A movement to fight such evils is laudable. However, it is unfortunate that this movement has gone beyond its legitimate purpose. One aspect of this which needs to be focused upon is the movement for imposition of burqa. As a girl I look upon my modesty and self respect as my most precious possessions, without which a woman is incomplete. However, an immoral woman cannot beome chaste just by wearing a burqa just as a chaste woman cannot be looked upon as immoral just because she does not wear burqa. Islam has given equal status to women, they have not been given less rights than men. Martyr Maqbool Bhatt, in his interview, just before climbing to the gallows, had specified among other issues, "I do not support any differences on the basis of sex, for the establishment of a society based on equality and harmony the role of the woman is as important as of the man. I am not in favour of the prevalent practice of burqa in Muslim society because it confines women within the four walls of the home."

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Burqa is a symbol which makes the woman feel inferior. How can a religion which gives equal status to men and woman compel the woman to feel inferior? A woman's modesty lies in her rightful dress and dupatta. That is the true purdah and not the burqa. It is possible to call a woman without a dupatta shameless but the burqa is no assurance against immodesty. A woman walking down in a burqa is like a black demon (kala bhoot). This move to impose burqa is a madness which has consumed young men and girls. It cannot be successful because burqa can be imposed to some extent only on the urban woman. A majority of our people live in the villages and rural women cannot work in the fields wearing burqas. Even in Srinagar, and other towns we have innumerable women engaged in business and trade who cannot go about their business in burqa.

My brothers, you who are compelling me to wear a burqa on the threat of death, who want me to become faceless, you are proving that Islam has spread on the strength of the sword. If I am actually murdered then I will name these Islamic fanatics as my murderers. If I am made a target of acid and poisonous colour in the name of Islam I will give up this kind of Islam and become a Christian but I will never accept to become a black demon (kala bhoot) and live with a sense of inferiority.

Sara Bano

I know that my arguments sometimes seem to be echoing Western feminists who attack the hijab but justify imperialism. I know how the Western feminists (and an articulate section of Indian feminists) are guilty of distorting the image of Muslim culture. I myself told you how El Saadwi's *The Hidden Face of Eve* has been misappropriated by West's reading of her, even though they have made her the most translated Arab writer, male or female.

El Saadwi, the Egyptian doctor who was in prison for her opposition to Camp David Agreement has been portrayed by Western feminists as an Arab feminist who was prosecuted for her opposition to female circumcision. In fact, in the original edition of her book, she mentions circumcision of women as a flashback of her childhood but entire chapters dealing with issues of colonialism and imperialism in her Arabic edition have disappeared from the English translation. While the issue of clitoridectomy is singled out and the focus shifts to issues of sexuality and patriarchy in isolation

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from issues of class and colonialism. I know this and I told you that we should get the original book and translate it into Urdu and English.

It is of course true that patriarchy is a problem in all societies and communities. But Bismillah, when you do not even recognize patriarchy as a source of oppression, I feel that all communication breaks down. And it is not only a theoretical problem. It is Geelani's authoritarian patriarchal attitude that has caused so much tension between him and me. You and your wife have not been able to pursue so many of your dreams because of the traditional family structures within which you both are imprisoned. When I see how your creative energies are being wasted, I think that Kashmiri peoples' movement is also impoverished. I knew how to run campaign for acquittal of your brother but I do not know how to campaign to release both of you from the prison, you call home.

I know you are struggling with these questions. Do not seek the easy way out and say burqa is better than bikini. The problem, my friend is that all existing societies are patriarchic. In the West the corporate world decides what a woman must wear and in ours it is the tyranny of traditional communities. I have struggled to understand the violence of state repression; you must struggle to understand the violence of patriarchy. Sometimes you seem to be ready to tackle all these challenges, sometimes you run back into the safety of the known. I know it is not easy. But who said jihad was ever easy.

Being Nationalist, Dreaming Internationalism

You are a Kashmiri nationalist and I love that part of you. But when you take refuge in an international pan-Islamic politics it seems you are as remote as the internationalist Communists are from Indian reality. Have you ever asked why the US can so easily co-opt the pan Islamists and fund and arm them? It is rather like some of the internationalist Communists land up in NGOs directly working on imperialist agenda.

I understand the seductive appeal of Iqbal's *Wataniyat*. I understand why he was disillusioned with the nation state and why the words have so much meaning for you:

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Yani watan beheslyat ek slyasi tasavoor ke

Is daur mein mai aur hai jaam aur hai jam aur
Saqi ne bina ki rawishe lutf-o-sitam aur
Muslim ne bhi tameer kiya apna haram aur
Tahzeeb ke aazar ne tarashwaye sanam aur
In tazah khudaun mein bada sab se watan hai
Jo perahan uska hai woh mazhab ka kafan hai
Yeh but ki tarashidai tahzeeb-e-navi hai
Gaarat gare kashanae deen-e-nabawi hai
Bazoo tera tawheed ki quwwat se qawi hai
Islam tera des hai too Mustafawi hai
Nazzarai dereenah zamane ko dekha
Ay Mustafwi khak mein is but ko mila de
Ho quaide-maqami to nateejah hai tabahi
Rehe behr mein azad watan soorat-e-mahi
Hai tark-e-watan sunnat e Mahboob-e-Ilahi
Dee too bhi nabuwwat ki sadaquat pe gawahi

That nation is only a reflection of political imagination

In these times, the wine, the cup and the Jamshed is different
The kindness and the harshness of the cup-bearer is different
The Muslim has built a different home
The architect of culture has made a different idol.
Of these modern idols, nation is the greatest
Its clothing, a shroud over religion
A new culture has sculpted this idol
And it is the destroyer of the religion of the Prophet.
The oneness of God has made you strong
Your nation is Islam and you are the follower of the Prophet
Show the old visions to these times
Oh follower of the Prophet, destroy this idol.
The effect of your submission to this confinement is dreadful
Be free from the nation as the fish in the sea
Leaving the nation is the tradition of the Prophet
It is to bear witness to the truth of the Prophet.

Most Indians do not even know that these are the words of the same poet who had few years before written "Saare Jahan Se Accha Hindustan Hamara." Like Iqbal, Kashmiris too are disillusioned with nationalism. They have had to deal with the oppression of two sovereign states.

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I understand how attractive internationalism can be under these circumstances. But it is an escape, not a solution.

Have you asked yourself why the corporate US and the reactionary regimes of Saudi Arabia have financed pan Islamic movements from Taliban to Chinese Muslims? Why are they opposed to nationality based but Islamic movements such as Palestinian Hamas, Lebanon's Hezbollah or Iraqi and Chechen resistance to occupation?

The dream of a borderless world can only be realized working through a democratic nationalism. It is the imperialists who want a borderless world so that capital can flow across borders without any state control. In any case for these people and their agents in the NGO world travel documents are mere formalities but for the vast majority of people borders are very real ways of marginalization, exclusion and oppression. We need to fight for democratization of borders.

For me Sampat Prakash and his comrades represent an alternative politics. It's amazing that their trade union could survive with a secular politics yet remaining a member of Hurriyat and firmly committed to the Kashmiri movement for self-determination. The fact that their union includes Hindus and Muslims, Shias and Sunnis, men and women, on an equal footing is to me a great affirmation of the strength of secular politics when it is committed to democratic values. The fact that such a trade union exists is also a testimony to the essentially democratic nature of Kashmiri movement.

Bismillah, my friend, the task before you is infinitely more difficult than it is before me. It is easier for me to fight the secular fundamentalists than it is for you to fight the Islamic fundamentalists. But the difficulty lies only in degree. Both these tasks are urgent and the struggle for a democratic Kashmir is inextricably linked to the struggle for a truly democratic India. As you once told me:

Kabhi tujhko gilah mujhse
Kabhi mujhko shikayat hai
Magar phir bhi Tujhe meri
Mujhe teri zaroorat hai.

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Sometimes you have a complaint against me
Sometimes I have with you
But despite this you need me
And I need you.

Can there be a dialogue between a socialist feminist and an Islamist? Or is it an impossible dialogue? Can our respect for each other, our love, friendship and solidarity overcome the impossible? Don't give up. You say you are tired. But I believe your journey has just begun. In that journey, take Rumi's advice:

When you're travelling, ask a traveller for advice,
Not someone whose lameness keeps him in one place.

I leave you with a poem of the Black American Slaves:

Lord, I'm tired
And I know you're tired too,
Look over the horizon
See the sun
Shining down on you...

In solidarity and with my love,

Nandita

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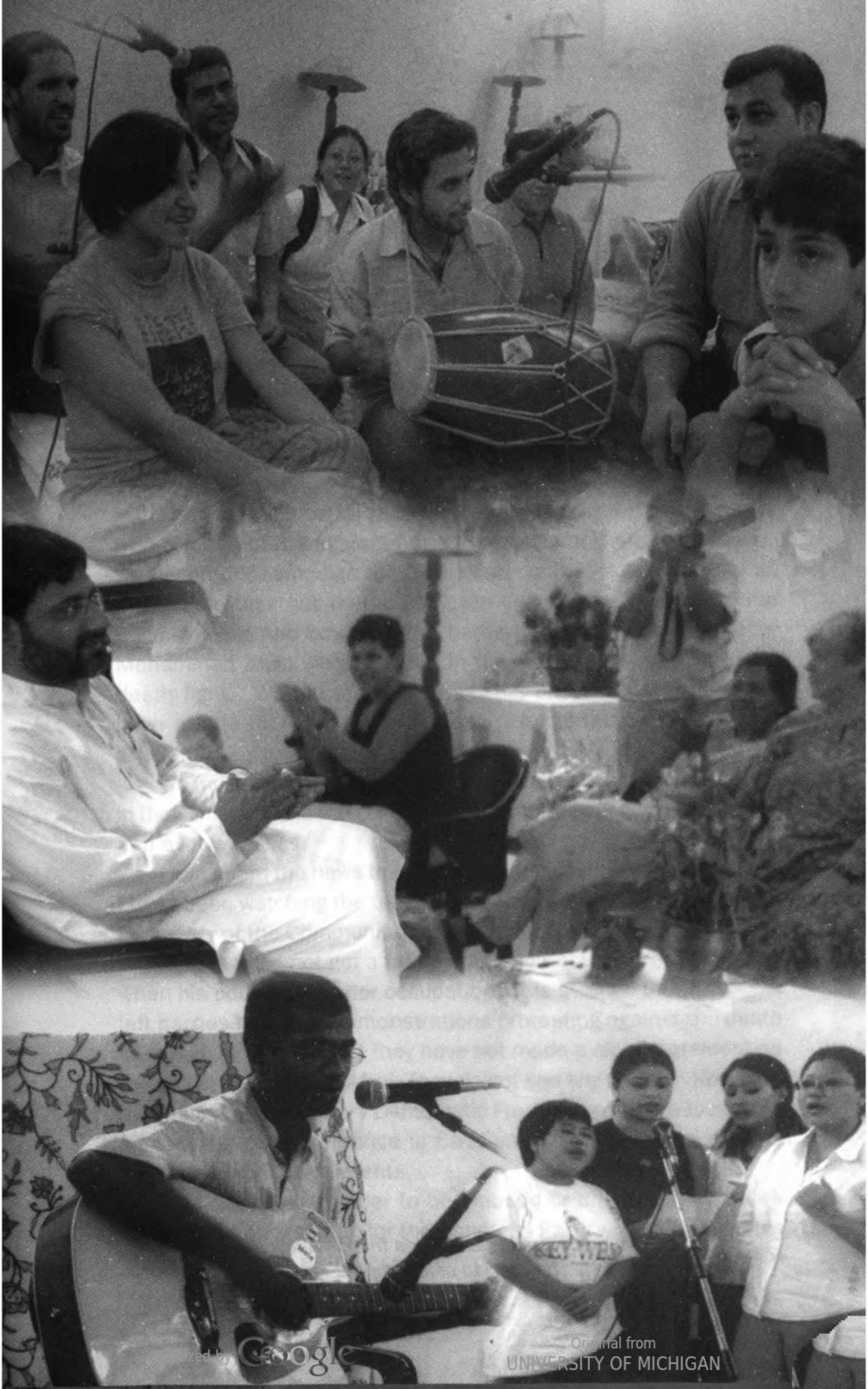

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Young Comrades and Naga friends singing at Geelani's party to celebrate his acquittal.

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In the Slaughterhouse of Love

Letter to My Young Comrades

My young comrades,

All of us feel a certain sense of achievement because we have won a tough battle against hatred, injustice and prejudice. When we began our campaign for Geelani's acquittal it seemed like an impossible task but we did not even discuss the possibility that we may lose! And now with the battle lines drawn for justice for Mohammad Afzal we are again in the midst of another life and death fight. We did manage to get his execution stayed so we have a little time and I want to use it for reflection on the task ahead.

We must clearly understand the political issues that have arisen in the campaign and then only can we formulate our future strategies and evolve tactics.

I just heard the news that Saddam Hussein has been executed. I have been watching the television all day. I heard D Raja, General Secretary of the Communist Party of India, say with some passion that Saddam did not get a fair trial and how could he get a fair trial when his country is under occupation? It is strange the traditional left parties have had demonstrations protesting against the death sentence to Saddam but they have not made a clear statement on the death sentence on Afzal. They do not see any parallel. However, the Maoist Revolutionary Democratic Front had a dharna to protest against the death sentence to Saddam and Afzal — they made a link between the two events.

I do not know whether to be amused or angry with Abhishek Singhvi, the spokesman for the Congress Party who expressed his 'disappointment' at the execution of Saddam Hussein. He told a

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TV channel that the execution would not solve the problem in Iraq and could even hinder reconciliation in that country. The Ministry of External Affairs also said that the execution could create more problems rather than solve them. None of them could see any parallels with the controversy over the execution of Mohammad Afzal. That is of course because they do not see Kashmir as a country under occupation. If Kashmir is not under occupation (of both India and Pakistan) then why is it a subject of talks, negotiations in the Indo-Pakistan talks and a United Nations office is allowed to have a presence in Srinagar?

Singhvi called BJP double faced and hypocritical for not taking a stand on Saddam's execution! He did not see the irony of that criticism.

I think all of us saw our campaigns for Geelani's acquittal and justice for Mohammad Afzal in the context of the so called war against terror. Remember, the attack on our Parliament was three months and two days after the September 11, 2001 attack on the World Trade Center. The BJP-led Government had finally found a way to focus international community's attention on India's war against cross border terrorism. They used the attack on Parliament to garner international sympathy and to justify their Pakistan bashing. They also used the attack to organize a joint sitting of both Houses of Parliament to pass the Prevention of Terrorism Act — an Act they found difficult to get through the Parliament because of the history of abuse of its predecessor, the Terrorist and Disruptive Activities Act. Unfortunately POTA could never sound as grand an acronym as the USA Patriot Act — United and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism.

L K Advani explained how POTA has come into being to the Joint Sitting of Parliament on March 26, 2002. He said it was only after the experience of September 11 that the UK and USA "showed greater understanding and appreciation of this problem we are facing". He went on to justify the suspension of human rights during the war against terrorism. I quote the relevant paragraph:

> The Constitution-makers themselves conceived that while fundamental rights are sacrosanct and if there is a violation of fundamental rights, every citizen would have the right to knock

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> at the doors of the judiciary and seek protection of their fundamental rights. But they made provisions which provide that in a situation of war those fundamental rights can be suspended.... they felt that in certain situations the security of the nation is a matter which should be deemed first, which should be given higher priority. So, first of all, the question that I would like to pose to all of you and which we have posed to the nation is: "Is it just in Jammu and Kashmir an aggravated law and order situation that we are facing or is it really when we say it is a proxy war?" If it were only terrorist organizations, perhaps, the ordinary law may be sufficient. But when you have terrorist organizations being trained, financed by State and it becomes State-sponsored terrorism and all of them are enabled to infiltrate into our country, it becomes a challenge of qualitatively different nature.

Advani went on to say that "we are already facing a war". Official India had finally established herself as a reliable ally of the US in the war against terrorism.

Of course we can celebrate because POTA has been repealed. But the provisions of POTA have been included in the Unlawful Activities (Prevention) Act, 1967. It is likely that the Armed Forces (Special Powers) Act may be repealed also but its provisions are to be included in a law which will apply to the entire country, the Communal Violence (Suppression) Bill, 2005.

We are seeing the rise of the authoritarian state and destruction of all democratic institutions. Decades of struggles for civil rights of prisoners and prison reform have all been wiped out. Political prisoners (mostly Kashmiris, Pakistanis and Muslims charged of belonging to banned organizations) are kept in cages. These are the "administratively segregated prisoners" as they are called in the US. In India they are called high risk prisoners (mostly undertrials) and this segregation is not considered punishment but an administrative requirement for men accused of terrorism, long before they are tried in any court of law.

We also see the rise of media trials which are more pernicious than public executions could ever be, since many more people watch them. Sadakat Kadri in his book *The Trial* has argued that "broadcasts are slowly, but surely, skewing criminal justice in favour

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of conviction. Although routine transparency is an excellent safeguard against corruption and stupidity, selective coverage generates expectations of even-handedness that can undermine the presumption of innocence."

We saw how easily the investigating agencies (or is it the intelligence agencies) were able to co-opt both the print and electronic media into carrying out a vicious campaign against Geelani, and more recently against Mohammad Afzal. The Prosecutor has become the new age hero and gone is the Defence counsel who was the hero of so many Hollywood and Bollywood films in the past.

Take the example of the recent broadcast of a CD given to NDTV, by the police, of a taped version of Afzal's confession. They broadcast the tape without any thought to the ideal of fairness or truth. In contrast, when I had offered to come to NDTV office and shown Afzal's letters written from the jail (at the time they had not been made public) I got no response.

Afzal's lawyer, N D Pancholi sent a notice to NDTV pointing out:

> The statement in the tape is a tutored rehearsal which Afzal was coerced to make under threat and after torture, that such statements in police custody have no value, that the High Court had reprimanded the police for organizing a media conference where Afzal made self-incriminatory statements, that the Supreme Court had also rejected his so-called confession made in police custody, that the police had never produced such a tape during the trial, that it was the defence lawyers who had the tape of the media conference of Afzal produced in the court to show how the conference was organized and manipulated under the dictation of the ACP Rajbir Singh.

I am sure you have read the lively exchange of e-mails between NDTV and Pancholiji. But Barkha has stated that she cannot even understand why Pancholiji thinks NDTV has been unfair. And then she asks: "And since according to all of you we are such sold out journalists, why is it that so many of those involved in the campaign for Afzal's clemency repeatedly write to us, call us and seek meetings with us?" NDTV did nothing to remedy the wrong they have committed.

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I see many parallels with the way Western media covered Saddam Hussein's execution and the Indian media's coverage of our campaign against Afzal's death sentence. Western media's focus was on the growing divide between Shias and Sunnis, even though the Iraqi Ambassador did point out during his interview that for centuries Shias, Sunnis, Kurds had lived together and that his own family had members from all three communities. He said that despite the eight year Iran-Iraq war with the regular army in his country being overwhelmingly Shia no civil war broke out.

And here in India the media has continued to portray the campaign for Afzal as being deeply divided between Indians and Kashmiris. Barkha Dutt writes in *Hindustan Times* of November 11, 2006 in an article "Warning: Handle with Care" that "a dangerous polarization has been thrown up by the Afzal debate: Kashmir is speaking an entirely different language on the case from the rest of India." In fact this is for the first time in Indian history that Indians and Kashmiris have come together to demand justice for a Kashmiri. This is in contrast to the time when Maqbool Bhatt was hanged and even I was celebrating! In Kashmir also all the leaders of the movement for self-determination have united together.

It is this unity that is perceived as a threat to Indian security.

I think what should have been emphasized by those who were involved in the debate with Barkha is that the people in Kashmir are protesting not merely because Afzal is a Kashmiri but because he was denied fair trial. I quote from the Resolution passed on September 24, 2005 and signed by Syed Ali Shah Geelani, Shabir Ahmad Shah, Mohammad Yaseen Malik, Mian Abdul Qayyoom (Chairman of the J & K Bar Association) and Nisar Ali (J & K Trade Union Centre). The relevant extract is:

> The judgement of the Supreme Court states that the attack on the Indian Parliament resulted in heavy casualties and has 'shaken the entire nation and the collective conscience of the society will only be satisfied if capital punishment is awarded to the offender'.
>
> We the people of Kashmir ask why the collective conscience of Indians is not shaken by the fact that a Kashmiri has been

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sentenced to death without a fair trial, without a chance to represent himself? Throughout the trial at the sessions court Mohammad Afzal asked the judge to appoint a lawyer. He even named various lawyers but they all refused to represent him. Is it his fault that the Indian lawyers think that it is more patriotic to allow a Kashmiri to die rather than ensure he gets a fair trial?

At the High Court an Indian human rights lawyer who volunteered to represent Afzal actually asked the court that Afzal wanted to be killed by a lethal injection instead of by hanging. Afzal did not know that his lawyer had filed such a petition on his behalf till after the case was over and he had been given three death sentences.

At the Supreme Court the senior lawyer and former Law Minister, Shantibhushanji, who was representing another co-accused told the court that Afzal was guilty and deserved to die. He made such statements throughout, both inside the court and in the print media.

In Sarabjeet Singh's case the Indian Prime Minister and Indian media has been campaigning with the Pakistani authorities to spare his life. And for the sake of the Indo-Pak friendship process Sarabjeet Singh's life will be spared but is it not a contradiction that the same leaders think that Afzal's life needs to be sacrificed at the altar of false notion of national security.

We resolve to launch a Kashmir-wide signature campaign in support of our demand that the death sentence on Afzal be commuted.

Kashmiri leaders are not even asking for a full pardon. All they are asking for was that his sentence be commuted. They are not fighting for Afzal merely because he was a Kashmiri but because he has been denied a fair trial. Even Tony Blair has made a statement that Saddam Hussein did not get a fair trial, but in India no political party has taken a stand on Afzal's trial.

I think we have partly to blame ourselves. We have not been able to project our politics in public. But this is where we are up against very difficult obstacles. And that is what I want to discuss with you, my dear young comrades.

I have been critical of the traditional left parties but their lack of support is not the real hurdle. In fact we did get people from different left parties and organizations together in our campaign

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for Geelani's acquittal and perhaps we could get them to do the same for Afzal. The real problem is with the NGO world. We have often talked about the growth of the NGOs and their impact on the political scene. Let us look closely at their role in our campaign.

Right from the start the human rights community (I cannot call it a movement) did not respond at crucial junctures: when the prison authorities did not allow the Muslim prisoners to offer namaz together on Eid , when they destroyed two of the concrete platforms which Muslim prisoners were using for offering namaz; and even when there was a murderous attack on Geelani inside the jail and the court had refused to protect him. Such attacks continue on Pakistani and Kashmiri prisoners. There was no protest even when Red Cross was not allowed to visit Afzal and other Kashmiri prisoners even though there is specific Memorandum of Understanding with the Government of India.

I had thought that the human rights community would have reacted when Geelani told the media about the horrific conditions in which political prisoners were kept in Tihar's so-called 'high risk' cells. He even wrote to the Chairman of the Defence Committee telling him about the prison conditions and the Defence Committee forwarded the letter to the NHRC. The NHRC registered it as a complaint and replied on February 11, 2004. They said that "if the allegations made in the complaint are correct, it is a serious matter involving violation of human rights of detenues and prisoners." The NHRC asked the jail authorities to send their Action Taken Report within two weeks.

Apparently the DIG (Prisons), Delhi submitted his report on March 16, 2004 and the NHRC wrote back to our Committee on August 20, 2005 wherein the jail authorities denied all allegations. The NHRC letter included an extract from the DIG's report in which he has said all facilities are given to prisoners. Let me quote:

> There is a dispensary in each of the seven jails running round the clock with doctors and para medical staff. Serious patients are referred to the Central Jail Hospital from the jails, Central Jail Hospital is 120 bedded Hospital having specialties in Orthopedics, Medicine, Psychiatric, Skin, ENT, Radiology, Pathology, Ophthalmology and Chest and TB etc. Patients requiring

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> super specialties treatment are referred to various govt/private hospitals outside.
>
> ...The complainant through this complaint has attempted to generate unwarranted publicity to browbeat jail administration. Further, the Judges of the Hon'ble Supreme Court, Delhi High Court, Members of the NHRC, Government of India officials, Foreign Dignitaries and the Media are regularly visiting the jails and all of them have appreciated the efforts of the Prison Administration towards the reformation and rehabilitative activities being carried out in jails.

The response is laughable except for the fact that there is nothing funny about putting human beings inside cages.

I was especially disappointed with the lack of response from the Peoples Union for Democratic Rights (PUDR), since that was the organization I was once a Secretary. It is true that they brought out a pamphlet "Trial of Errors" after the judgement of the Designated Court. In the past we always tried to understand violation of human rights in a political context. In this pamphlet the political context was not even mentioned. This was the pamphlet they brought out just after the POTA court had sentenced Geelani and his co-accused to death. They did not even mention the fact that this was the first case which officially took judicial notice of the war against terror.

The PUDR began their pamphlet by actually thanking the trial judge who had sentenced three Kashmiri men to death without a fair trial. Let me quote the paragraph: "Before we share our findings and analyses with the readers we would like to thank the trail judge for not conducting the trial in camera and keeping it open to the public." It was extraordinary that a human rights organization was thanking a judge against whom there had been widespread protests because of the way he had denied the accused a fair trial. I do not know by what process that PUDR had become so depoliticized but I can say that human rights discourse has been largely co-opted by imperialism for their agenda.

The Western states and foreign funding agencies have poured in millions of dollars for human rights works in India and abroad. Under the guise of promoting human rights, good governance and

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peace they have taken away the focus from the political context of the violations of the rights. This has not come about over night and we need to look at the history of how it has been done. In the 1960s a new discipline arose called peace studies with a mushrooming of institutes all over the world for the study of peace. In the United States the administration made concerted efforts to professionalize the peace movement. The result of these efforts was that by the end of the so-called Cold War in the 1990s for a large numbers of young people the idea of politics was reduced merely to a programme for the elimination of violence and civil society was seen as an alternative to serious political action, as if civil society was something located outside the influence of the state.

Back in 1961, US President John F Kenedy established the Peace Corps to promote world peace and friendship. Since that time more than 182,000 Peace Corps volunteers have been invited by 138 host countries to work on issues ranging from AIDs education to environment preservation, to information technology. In 1971, the Nixon Administration created a new federal volunteer agency called ACTION of which Peace Corps was a vital part, and in 1979, President Jimmy Carter signed an executive order to grant Peace Corps full autonomy. Following September 11, 2001 President Bush calls on the Peace Corps to work in service of their neighbours and a record high number of applications were made in response to his call.

In 2004, the Peace Corps signed a historic agreement with the United Nation's FAO to improve food security.

When I was in school my friends told me how they were hosting these friendly Americans in their homes. My father would not allow me to be part of the exchange programme because he said they were really a front for American imperialism. James Petras has written several articles including many in the *Monthly Review* saying that the Non-Government Organization (NGO is a misleading term since the money mostly comes from Governments) is really new wine in the old bottle. Whether it is the Peace Corps or the NGO involved in promoting non-violent conflict resolution these organizations have "attracted many former leaders of guerillas,

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labour, and social movements, giving organizations credibility on the left that the Peace Corps could never hope to achieve, playing good cop more convincingly than the Peace Corps and clearing the path for the bad cop of neo-liberal economics."

You yourself had a first hand experience of the influence of one such leftist, a brilliant history teacher in Jawaharlal Nehru University, who is also closely working with a NGO promoting peace.

Remember when you organized a protest against the visit of the Prime Minister to the Jawaharlal Nehru University campus on November 14, 2005. Jatinder gave me a blow by blow account of the experience in which you held a peaceful protest against the neo-liberal policies of the Prime Minister and were physically attacked by the JNU Patriotic Front in connivance with the police. The Patriotic Front was a break away group of the ABVP with stronger links to the RSS. And the leftists blamed you for dirtying the image of the University.

John also gave me a moving account of his experience: "Looking back at it, personally, the aftermath of 14 November event and the public meeting was an important eye-opener. Among other things, it compelled me to reflect on what terms like 'violence', 'non-violence' and 'peace' has meant for me right from childhood. For here was a situation where a group of 30 to 40 students who registered their protest in a non-violent manner were not only violently beaten up by right wing goons but also demonized as 'disruptive elements' and 'violent extremists' by the 'secular' and 'democratic' forces in campus. And to top it all of, a man who is obsessed with 'peace' was giving those beaten up moral discourses on 'violence'. Such was the violence of 'peace'."

John went on to write: "The politics behind much of the 'peace' talk and how it tames political aspirations of the oppressed and marginalized people began to gain more clarity. I also saw how many 'non-violent' people's movements had compromised much of what they had aspired for. In fact, the thrust on 'non-violence' in many movements had taken precedence over attaining what they fought for. The new questions I struggled with made me raise many uncomfortable questions to my old friends. Many of them, instead of answering those questions, looked at me with 'concern' and 'pity'. Although they never asked me openly, I knew that inside

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their minds they were asking what had happened to this spirited young man who used to sing songs of peace?"

It is particularly difficult to make people understand the politics of these new apostles of peace. They seem to speak in the same political language as us and appear to be legitimate human rights activists. In fact, it was some of these activists who, first reached Geelani in jail. They visited him, went to meet his family in Baramullah, spoke kindly to his wife and children and even offered to engage human rights lawyers for the accused. John has aptly defined them as the False Prophets. Let me quote to you from the Bible:

Thus says the LORD concerning
The prophets
Who lead my people astray.
Who cry "Peace"
When they have something to eat,
But declare war against those
Who put nothing into their
Mouths.

— Micah 3:5.

The description of NGOs as false prophets is most apt. If you read about pacifism and listen to the voices of the truly principled pacifist, he or she will admit that armed resistance is legitimate under certain circumstances. John showed me the passage from *Luke*. Let me quote Jesus, an apostle of peace:

> *I came to bring fire to the earth, and how I wish it were already kindled! I have a baptism with which to be baptized, and what stress I am under until it is completed! Do you think that I have come to bring peace to the earth? No, I tell you, but rather division! From now on five in one household will be divided, three against two and two against three; they will be divided.*
>
> — Luke 12. 51-53; 14. 26-27.

Martin Luther King, another apostle of non-violence, said back in 1967 at his Riverside speech: "I could never again raise my voice against the violence of the oppressed... without having first spoken clearly to the greatest purveyor of violence in the world

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today — my government." Blasé Bonpane who Ward Churchill describes as a devout and principled pacifist has written that armed struggle is required in the Third World because "passivity can co-exist nicely with repression, injustice, and fascism." He goes on to ask: "Unfortunately we have been brought up with parlour games, where participants discuss whether or not they are 'for' or 'against' violence. Can you picture a similar discussion on whether we are for or against disease?"

These NGOs have various projects in conflict areas, including Kashmir. The projects may range from documenting specific human rights violations to running hospitals and orphanages. Some of them have been working in the Valley for many years yet none of them ever took up a systematic campaign for the release of Kashmiri political prisoners. Their documentation of human rights violation is a way of getting legitimacy for their hidden political agenda which is to undermine the Kashmiri peoples' movement for self-determination. Their human rights documentation is done without addressing the root causes of those violations and distorting the context of those violations.

A large part of NGO work is addressed to promoting non-violent conflict resolution. This is a laudable objective if addressed to the perpetrators of the violence. For instance, these groups do not run campaigns to demand punishment for those officers of Indian security forces who have been responsible for torture of innocent Kashmiris especially in the notorious STF detention centres. Instead they preach non-violence to Kashmiri leaders and have even succeeded in making some of them into such pacifists that they cannot even publicly criticize the United States and its imperialist policies. Their association with these NGOs has compromised their politics.

The Kashmiri people have seen the work of these NGOs and have already begun to question their motives. To begin with, the Kashmiris thought we too were just another group of people who had come to exploit their pain and their sorrow. Over the years they have learnt to be suspicious of all outsiders. But they noticed that we did not go to Kashmir to raise money, we did not have our press conferences in the five star hotels, we travelled in buses,

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we did not interfere in local politics or give lectures on non-violence, and we did not even want a free holiday in Kashmir during our summer vacations. It became obvious to the politically minded people in Kashmir that we were genuinely showing our solidarity to a Kashmiri without undermining his politics.

Bismillah took time to fully understand the difference between our politics and the politics of the NGOs. At first he thought it was some ego hassles between us and the NGOs. He could not understand why Geelani wanted me to be in charge of his case. But then he got a shock when one of the human rights activist visited him at their home after Geelani had been sentenced to death by the Sessions Court and told him not to accept Ram Jethmalani's offer to defend Geelani. Ram had volunteered to defend Geelani at the High Court. He understood the political significance of our Defence Committee and our campaign. The activist told Bismillah and Geelani's wife that they should not accept Ram's offer. Bismillah came to ask my advice. I told him that this was Geelani's only chance for acquittal. Ram was not only the country's best criminal lawyer but also a political lawyer even if his politics was reactionary.

Once Ram had decided to take up the case we were able to cut all links with these NGOs. But the NGOs never gave up. They would find ways to interfere in our work. Ram obviously did not understand the politics of these NGOs and he fell into their trap when they used him to write a letter saying he was shocked that I had made "false statements with malice" against Afzal's lawyer on the question of the lethal injection. Afzal's lawyer in the High Court denied he had ever made a submission that Afzal should be killed by a lethal injection and not by hanging. The lawyer went around showing his 250-page submissions he made at the end of his arguments as proof that he never made such an argument.

However, Ram states in his letter that the submission was indeed made: "I remember your argument that the provision of our criminal law which sanctions death by hanging is a cruel and unusual punishment and is constitutionally impressible. If this argument had succeeded there was no provision left for executing the death sentence. You were only suggesting to the Court that there are more humane methods of carrying out the death sentence and a

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lethal injection is one of them." Ram had only confirmed that such an argument had indeed been made. No one bothered to ask the lawyer why he had not included that important argument he made in his additional affidavit in his 250-page final submissions. What really got lost was the fact that the additional affidavit submitted in February 15, 2000 had also the additional details of torture of Mohammad Afzal at the hands of the STF camp. Details which Afzal had not been able to tell the court in his 313 statement. Those also got lost in this totally unnecessary controversy.

It was not brought to Ram's attention that it was not I who had made any allegation against the lawyer but Afzal who had read about the submission on the lethal injection inside the jail. I asked Afzal whether his lawyer had ever clarified the matter. Afzal said he had not.

It was also interesting that this campaign against me was started bang in the middle of our campaign for justice to Afzal. The episode of the lethal injection was brought to light long ago in January 2004 when Afzal wrote to the Defence Committee but we did not make the letter public precisely because we did not want to distract the media's attention. The issue came out in the open when Afzal's wife wrote an appeal and got it published in a Kashmir daily. Then it was published by *Asian Age* in 2004 but there was no reaction. At the time the lawyer did not bother to clarify to the matter either with Afzal, his wife or with the readers of *Asian Age*. He decided to unleash this campaign on the internet against me just as our campaign for Afzal was at its height and we had won substantial public sympathy. It was cleverly aimed at me while pretending to be sympathetic to Afzal.

I remember when I was in the eye of the storm I asked Bismillah what would the Prophet have done to fight these NGOs. Bis said that Prophet Mohammad had to face the Hypocrites who were like today's NGOs. He told me that one haddis quotes the Prophet (peace be upon him) as saying:

> If the following four characteristics are part of a person's character, he is pure hypocrite. If one of them applies to him, he has the characteristic of hypocrisy until he abandons it: he lies when he speaks, he violates his pledges, breaks his promises and when he quarrels with someone he is shameless.

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It was not only in Delhi but even in Kashmir these human rights activists tried to sabotage our campaign. On one occasion Sebastian and I went to Kashmir to distribute the Defence Committee's pamphlet. It was June 2003. The Bar Association had welcomed us warmly and invited me to speak on June 20, 2003. We arrived a little before the appointed time accompanied by Basharat Peer. We sat under the shade of a large tree in the courtyard and talked. Suddenly we became aware that no one was greeting us. Basharat saw a well known "human rights activist" gloating in a corner sitting along with a relative of Geelani. Basharat thought I should leave, but I said "since I had been invited by the Bar Association they should give some explanation or at least inform me that the meeting was cancelled." After all, the day before they had all given us such a warm welcome.

After an hour of waiting, one of the senior office bearers of the Bar Association came and requested me to come upstairs to their office. In their office several lawyers had gathered and also many people who had come to seek my legal advice about their cases pending in Delhi Courts. Sampathji had also arrived. He was furious. In his inimitable style he expressed his fury at this insult to me and our campaign. The lawyer tried to cover up by saying that they had cancelled the meeting because they did not know my stand on the Kashmir issue. I was about to reply when another lawyer sitting next to Basharat told him in Kashmiri that, in a recent meeting at Hyderabad with the Hurriyat leaders present, I had made my political stand very clear that I believed that Kashmir was a disputed territory and the people of Kashmir had every right to determine their own political future.

All this confusion and embarrassment to the Bar Association had been caused by this Kashmiri human rights activist. He also had managed to get one of the leading Kashmiri newspapers to boycott our press conference. The strange thing was that I had never met him, let alone had any discussions with him or his group. More recently he has been undermining Geelani's efforts to build a struggle in support of the Kashmiri political prisoners.

My dear comrades, the task before you is to fight these modern day false prophets and hypocrites. It is not an easy struggle, and I cannot say that it has not affected me personally when I am

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unfairly attacked. All I can say is that I have taken it as a necessary part of our struggle. I even found a poem (I think it is Ghalib's) that expresses my mood on most days:

Why should you gather
All my rivals?
Think you it will
Be my trial?
But no my love
It will only be
One big fun!

Many of you have asked why I am able to carry on. The reason is that I have the trust and love of the people who matter. A word and a gesture from them gives me enough strength to fight any number of false prophets. Remember how good we felt when we got a letter from a Kashmiri prisoner just a few days after Geelani was shot outside my house. Read the letter and you will know that the words come straight from his heart (see next page).

It is true that everyone who is working in these NGOs does not know the hidden agenda or understand the politics of human rights and peace. It is also true that human rights discourse still provides a way to politicize people.

You remember when we organized a poster exhibition called 'Lies of Our Times' and the Vice-Chancellor banned it. In defiance of his ban the Delhi University teachers found various ways to show it to their students. Nandita Narain defied the ban in her college, St Stephens by having the exhibition in her home on the college campus and inviting the students and teachers to view it. Many students put their comments in our register. Reading these comments I was happy to see that they had made the connection between the right to fair trial for Geelani and the question of Kashmir.

I want to quote to you the reaction of some St Stephen's College students:

> It is really important for the citizens to know the "other side of the story" of a lot of issues projected wrongly by the media. This exhibition solved that purpose and was good.
>
> — J Apoorva

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Dated 17 Feb

From
Engineer
Farooq Ahmad Khan
Presently lodged in
High security ward
Jail No-1 Tihar New Delhi-64

Respected Ms Nandita Haksar

I along with all Kashmiri brothers lodged in Tihar jail, wish you our best regards and are highly thankful to you for the bold and courageous stand taken for defending our innocent brother Prof. S.A.R. Geelani. The acquittal, his revival of social image tarnished by Delhi police and ruthless propaganda of mass media, his acceptability by university staff and students — the credit of all this goes to you and your intellectual team work. And now on Feb. 8 saving his life by taking him to AIIMS in time after a murderous attack on him has given a new ray of hope and firm belief to every Kashmiri in your endeavour.

Morally we are very much obligated to you, your husband and your team work. But unfortunately there is no other way to thank you. We all pray for your, your success and speedy recovery of our brother Prof. Geelani and wish you best of luck.

Sincerely
Farooq Ahmad Khan.
with other Kashmiri brothers

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> I am deeply touched by this exhibition. I feel guilty to be enjoying the pleasures of life when so many atrocities are being committed on my fellow country men. I have always been a proud Indian. Believing in secularism and democracy. But today I doubt!!!
>
> — Simi R Thomas

> A heart wrenching story, a wake up call... save democracy – save Geelani.
>
> — Shruti Sinha

> Terrorism has increased from the day USA has started its fight against terrorism. It has created more rift, rather than giving a solution. Kashmir consists of people, not just an issue. One should think about them,
>
> — Samlita Mishra

So you see, human rights discourse linked to the right politics can create democratic space to raise many issues. You will immediately ask what is "right" politics? I do not mean there is only one right politics. What I mean is that the politics which is designed to expose the root causes of oppression and supports peoples' resistance. Let me give you an example of what I mean by "right politics" and "wrong politics".

While we were creating the exhibition there were several controversies over the words and images to be used.

There were three posters on the general theme of war against terrorism. They were supposed to put our campaign in a political context. One of these three dealt with resistance to the US occupation of Iraq. The film maker who was helping design the poster insisted we get the photo of the one million people's historic anti-war demonstration held in New York just before the war. It is indeed a dramatic photograph. I suggested that we have another poster showing Iraqi resistance as a gesture of our solidarity. This film maker who specializes in promoting peace through his films said that we should not have a poster on Iraqi resistance since it was violent and also fundamentalist. He said many people in Europe were very uncomfortable with Muslim organisations joining their anti-war protests.

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How quickly and comfortably he had passed judgement on Iraqi resistance. He had dubbed it "violent and fundamentalist" on the basis of what his friends in Europe had said! The only concession he was willing to make was to have an image of an Iraqi child waving an Iraqi flag. I do not think he had any idea how violent his peace talk would seem to the 200 Iraqi children who were dying every day as a direct result of US occupation.

This is a typical reaction of the "peacewalas". They appropriate human rights discourse to delegitimize genuine resistance by equating the violence of the oppressor with the violence of the oppressed. Let's take the example of "Roots in Kashmir Movement", an organization of Kashmiri Pundits, which held a rally on December 10, 2006 at Jantar Mantar. The organization is dedicated to fighting terrorism by the "sufferers of terrorism" and their pamphlet appeals for "support of the entire nation and appeal to the collective consciousness of this great nation to make this rally a success..." Anyone with the slightest intelligence can see that the timing and wording are aimed at undermining the campaign for Afzal. However, a NGO which was involved in Afzal's legal defence participated and endorsed the efforts.

There is no doubt that Kashmiri Pundits have suffered. But Kashmiri Muslims have also suffered. There are as many Kashmiri Muslims in exile as there are Pundits. But the media has only made the Kashmiri Pundits visible. Perhaps the media's sympathy with Kashmiri Pundits reflects their loyalty to the Indian state and official nationalism. Kashmiri Pundits have always seen themselves as "Indian ambassadors" as Mr Hiralal Chatta told me at the Geeta Bhawan in Jammu back in 1990. If you see violence without any political context then you put it all under one umbrella and condemn all equally. You equate the violence of the Indian state with the violence of the resistance in Kashmir and you equate the violence of Iraqi resistance with US violence in Iraq which has resulted in the death of more than 100,000 Iraqi civilians between March 2003 and October 2004.

It is because of this appropriation of human rights discourse that these "NGO activists" can live comfortably on money given by imperialist funders and create an illusion that they are against globalization.

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It is not only the human rights movement which has been appropriated, feminism has also played its role in justifying imperialism. Many Iraqis have asked: "Are Western feminists allowing George Bush to steal their rhetoric to occupy Iraq and torture Iraqi women?"

It is well documented that the situation of Iraqi women under US occupation has deteriorated. Before the US war and the genocidal sanctions Iraqi women held high positions in academia, law, medicine and government. Iraq's Constitution of 1959 was the most advanced in West Asia but the new Constitution produced under the US appointed Governing Council strengthens religion under the government. US has used Islamic fundamentalism and sectarianism to bolster their occupation and this has resulted in the deterioration of Iraqi women's status. In addition there is a dramatic increase in sexual abuse and violations of women's rights especially in the Western run prisons such as Abu Ghraib, Al-Kazimiyah and Al Rusafah and many lesser known ones.

Leila Ahmad, professor of women's studies at Harvard University has written that "whether in the hands of patriarchal men or feminists, the idea of feminism essentially functioned to morally justify the attacks on native societies and to support of comprehensive superiority of Europe and America; it serves as a handmaiden of colonialism."

The same allegations can be leveled against Indian feminists. They are in the forefront of the peace brigade preaching peace to those who are resisting the authoritarian nature of Indian state. That's why they feel quite comfortable working with both the State and NGOs. If the women's movement had raised their voice against the injustice done to Navjot Sandhu in the name of fighting against terrorism they would have made a significant intervention. This lively, courageous Sikh woman who had dared a traditional society's traditions by marrying a Kashmiri Muslim and who dreamed of having a good life was suddenly thrown into the hell hole called Tihar Jail when she was seven months pregnant. She had her baby in the jail, came out of the experience broken in body and spirit. The acquittal had no meaning for her. Where were the feminists who talked about peace?

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I can hear you ask, why I accepted the nomination for the Nobel Peace Prize in 2005. Frankly I thought there was a possibility of a radical engagement with the women's movement especially since it was not an individual nomination but a collective nomination of 1000 women from 153 countries. And they did make an important linkage between peace and justice. I am not justifying my decision, it is for you to judge whether I did the right thing.

We need to device political strategies that affirm equality and justice for women without falling into the trap of either rejecting the feminist critique or justifying imperialism. Of course this is easier said than done. All my life I have found myself working with, and defending, brave and courageous men fighting state repression but being authoritarian and even cruel to their wives. I have also worked with feminist groups and taken up cases of domestic violence where brave and courgeous women have fought the tyranny of traditional communities and were subjected to violence and torture, but they could not understand state violence.

My dear comrades, you will face many such political dilemmas. You will find that sometimes you will have to support a nationality struggle which is not secular and sometimes you have to oppose a secular party because it is undemocratic. We are at a strange historical juncture where our opposition to imperialism leads us to supporting individuals, organisations and movements that oppose the values we cherish most. It is absolutely imperative that we have a clear political understanding of the situation we are faced with and then evolve our tactics and strategies without sacrificing our values and principles.

We have to guard ourselves against falling into ready made political boxes. We have to learn to think 'out of the box'.

How easily we ourselves get trapped by the stereo-typical image of a terrorist created by the media! Do you remember the debate around the poster entitled 'Logic of an anti-terrorist court'? The visual was a photograph of a Muslim man leaning on a wall of a roof overlooking a crowded city. I had summoned up the entire judgement of the designated court in a few lines showing how Geelani had been convicted, because he was perceived to be a pro-Pakistani educated Kashmiri Muslim.

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Some of us (that included me) felt that the man in the visual "looked" like a terrorist and it sent a negative message. Our friend who was designing the poster was appalled at our interpretation of the photo. I showed the image to a variety of people to see their reactions. A Kashmiri journalist friend said the main in the photo definitely looked like an activist of the LeT, but a Pakistani friend said that nearly every Pakistani looked like the man in the picture! A JNU student said it looked as if the man was surveying the area to plant a bomb, while a theatre director said the man had a totally relaxed body language and was obviously relaxing, enjoying a view from the top. The designer friend said we were 'reading' an image instead of 'seeing' it. We ourselves were creating the stereo-types. She won. You can see the poster for yourself on the next page.

Are you wondering whether I have forgotten our campaign for Afzal? No, dear comrades, I have not. I hope you will see the relevance of our discussion so far to the question of evolving future strategies for our campaign. The campaign seems to have lost focus because the media is focussing on the personalities who are speaking on behalf of Afzal rather than on Afzal himself. The campaign needs to release Afzal from the prison of the stereotypical image of a Kashmiri terrorist constructed by Bollywood. Also, it is important to remember that mere talk of human rights and civil liberties with its focus on right to fair trail or against death penalty is hardly enough to save Afzal from the gallows. I believe our campaign for Geelani won because it had an appeal to Indian patriotism. We won even though Kashmiris themselves did not launch a movement for him. In Afzal's case Kashmiris have launched a movement and may succeed in saving him but we would be a infinitely sounder ground if the campaign is also linked to a genuine concern for the future of Indian democracy.

Those who are intervening in the campaign to save Afzal but have no commitment to Indian nationalism are not doing any service to his cause. We must never underestimate the appeal of nationalism.

Unlike most of you, dear comrades, I do feel deeply nationalist but my nationalism is, I hope, never chauvanistic. It certainly is nothing like the 'official' nationalism of the Indian state. Perhaps

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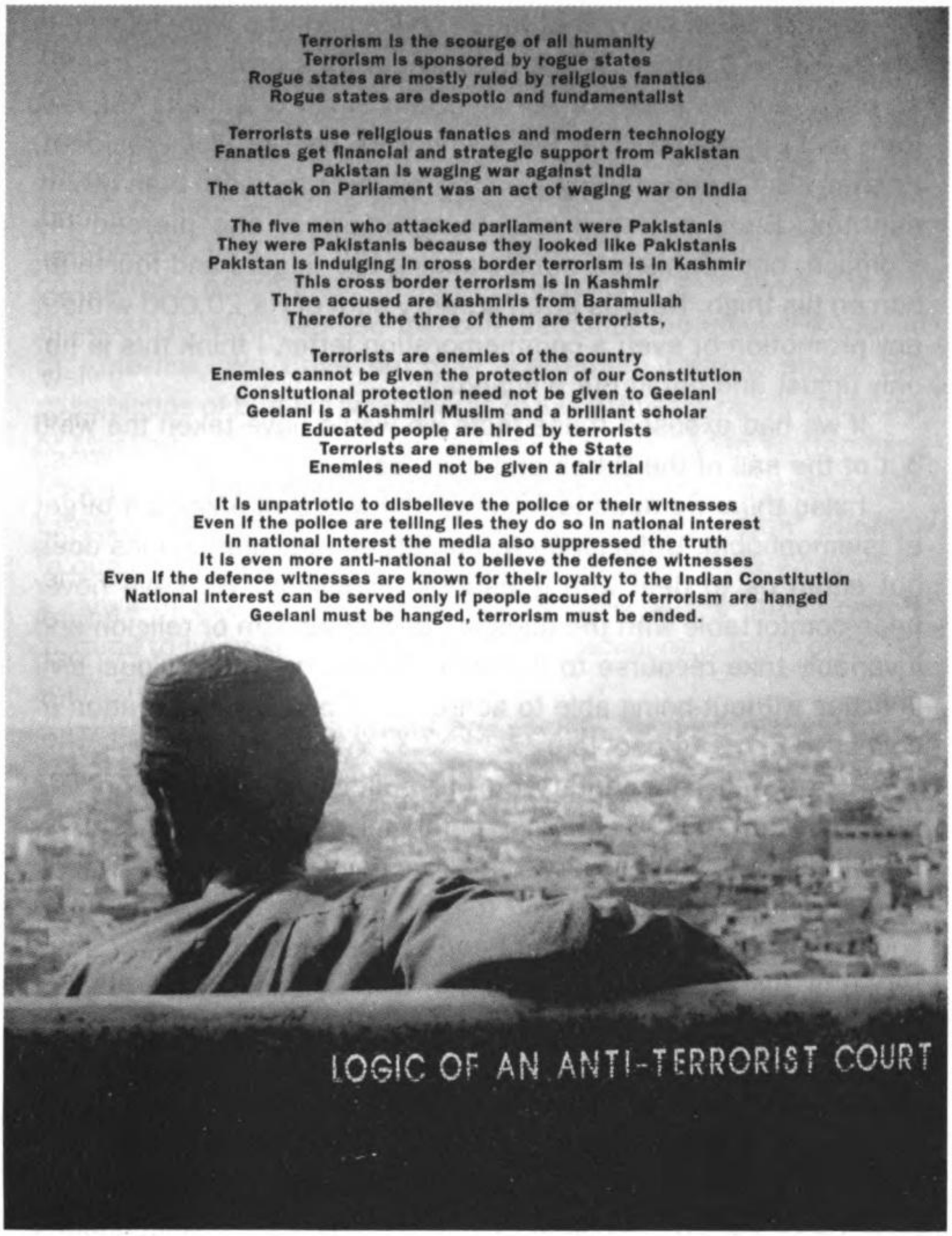

Design : Sherna Dastur; Photo : Samira Jain

the word patriotism better describes my feelings. I believe it is that patriotism which makes me angry that Afzal, a citizen of India, has been systematically deprived of his rights under the Constitution of India. I feel outraged that the Supreme Court should hold that Mohammad Afzal must be hanged to satisfy the "collective conscience of our society".

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Equally, I feel angry that those policemen who were injured in the Parliament attack, trying to save our MPs have been treated so badly. For instance, SI Purushottam Singh Chauhan, ASI Jeet Ram and Constable Rajat Bisht who were part of Vice-President, Krishan Kant's security engaged the militants for more than twenty minutes. Bisht suffered four bullet injuries, one pierced his stomach, one hit his left hand claiming two fingers and fourth hit him on his thigh. He was given a paltry sum of Rs 20,000 without any promotion or even a commemoration letter. I think this is not only unjust and unfair but a scandal.

If we had exposed these facts we would have taken the wind out of the sail of the Bittas and their lobby.

I also think we need to focus on the fact that Afzal is a target of Islamophobia. Unfortunately, our left and secular politics does not equip us to deal with questions of religion. We have never been comfortable with the question of nationalism or religion and invariably take recourse to the liberal discourse of individual civil liberties without being able to address the problem of violation of collective rights of people.

It is a sad commentary on our politics that even John and Bismillah do not feel entirely comfortable with us. They feel we have little room for believers. I think we have to very seriously look at the question of culture and religion. Do you all remember the Foundation Conference of the Peoples' Democratic Front of India (PDFI) in July 2006 on the occasion of Shaheed Udham Singh's 66th Martyrdom Day? I was to give a lecture on the inaugural day and the Conference began with a tribute to the revolutionary martyrs with a "Shraddhanjali". I was horrified to see that the tribute was to be led by a group of Brahmans which included B D Sharma and myself. The symbolism of this was bad but when B D Sharma took off his shoes and offered flowers to the photos of the revolutionaries and bowed with hands joined in prayer as a tribute to Bhagat Singh, an atheist from our platform, I thought this was truly a reflection of poverty of our philosophy.

You sometimes ask me why I have been reading so much about Islam. It is not because I am particularly attracted to the religion, or to any religion. But I do see how Muslims have become the

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latest targets of imperialism and that is why I feel a solidarity for them as a community and their movements against imperialism.

I see a new generation of popular literature emerging with Fredrick Forsyth's *The Afghan*. Just as during the Cold War popular literature kept alive the nightmare of imagined communist world conspiracy now we have the nightmare of Islamic terrorist conspiracy personified in Robert Ferringno's *Prayers for the Assassin* in which we see the emergence of the Islamic Republic of America. We have serious academics talking about the possibilities of Eurabia which serve to justify human rights violations of Muslims in Europe. In the German State of Baden Wuttemberg Muslim immigrants are obliged to answer an official questionnaire to determine their "internal attitude to the constitution" in order to qualify for a passport. This "internal attitude" is determined by a range of questions covering issues such as the interviewee's attitude to homosexuality and the "free democratic basic order" in Germany.

In India radical Islamists are seeking to have dialogue with leftists but we are hardly ready for such a dialogue. We are ignorant of their world, their intellectual traditions and their religion. My conversations with Bismillah have been very useful and more recently with Islamic activists from Kerala have been even more illuminating. These exchanges have convinced me that there is a possibility for a serious dialogue but we need to prepare ourselves for it. We must make amends for our collective mistakes in the past so that the dialogue is meaningful and we are able to forge principled alliances in which neither side has to sacrifice their basic belief system. It is not going to be an easy dialogue.

If religion is a source of strength and inspiration to fight against injustice it is something we must understand, but if it is used to depoliticize people by telling them that prayers and superstitions can help them, we must fight it.

And so the challenges before us are immense. I believe we must pursue our quest for truth. We must be prepared to give up our most cherished political beliefs and assumptions if our quest leads that way. As a German philosopher, Peter Sloterdift, says:

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> What ever deceptions are constitutive for a culture, wherever life in society succumbs to a compulsion for lying, there really speaking the truth has an element of aggression, and unwelcome exposure. Nevertheless, the instinct for disclosure is stronger in the long run. Only a radical nakedness and bringing things out in the open can free us from compulsion for his mistrustful imputations. Wanting to get the 'naked truth' is one motive for a desperate sensuousness which wants to tear through the veil of conventions, lies, abstractions and discretions in order to get to the bottom of things.

I have often found myself alone because I have spoken out. But the pain of that isolation has never stopped me from taking up the challenge to try and understand the complexity. Each case opens a window on a different world forcing me to continuously sharpen my understanding of the society in which we live in.

My source of inspiration is the extraordinary courage, dignity and humanity of ordinary people (and their humour) in the face of extreme violence. I can never forget the day when we heard the news that Supreme Court had rejected Afzal's review petition. I was in Srinagar and Tabassum had come to see me in the hotel. Her face registered her disappointment but she suppressed her feelings and smiled and asked whether I would like to go to the Mughal Gardens. It was that small gesture that reflected her deep humanity.

It is amazing how Afzal has maintained his dignity. Something Indira Jaisingh noticed when she met him in jail to discuss her curative petition.

Afzal has been quiet and disciplined prisoner. He has spent his time reading, improving his understanding of the world around him, reading Noam Chomsky, Eduardo Galaeno and Urdu poetry. He draws solace from the Quran and his faith has preserved his humanity. He has tried to protect his family even while sitting behind the bars, he has incriminated himself but refused to falsely implicate Geelani, he has shown every courtesy to his supporters and kept up his spirits by never giving in to despair. The second time I met him he told me that I should do something about getting the television back into the high security cells because (and he said this in confidential, low tone in the visiting room of Tihar Jail) "at

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least TV distracts these people and stops them from becoming fundamentalists". He saw no irony in that statement.

I am always amazed by the way people in the most desperate situations do not give up hoping. Tabassum and Ghalib are hoping the President of India will give them justice. I must say I too share their hope.

The day the President of India gave us an audience, I was proud of our country. As Aisha Begum, Tabassum, Ghalib, ND Pancholi and I went into Rashtrapati Bhawan, we were treated with utmost courtesy. We waited in a large drawing room and Ghalib looked at the enormous building and asked: "Does only one man live in this place?" His mother replied: "Yes". Then he said in a loud voice full of childish wonder: "It is even bigger than Tihar Jail." Tabassum told me that one day she had found him trying to hang himself, so that he could feel the pain his beloved Abu would feel. To the President of India, he asked that his father be released so he could become a doctor.

The President was kind and patient. He heard each family member. The family members asked for justice. And now they are waiting for his decision. The waiting is excruciating.

It is love that sustains Tabassum, Afzal and Ghalib. I believe no amount of political analysis and even understanding can substitute for emotion and feelings in political action. I believe you have to have some inner drive and passion to take up a campaign. I believe you have to feel a strong love for your cause. Do you remember that I wanted to call my book "The slaughterhouse of love" — a line taken from Rumi's poem. But we were told that the title was not saleable. Let me remind you of the words:

In the slaughterhouse of love, they kill
only the best, none of the weak or deformed.
Don't run away from this dying.
Whoever's not killed for love is dead meat.

My dear young comrades, I am sure you have a passion and commitment within each of you, to prevent you from becoming dead meat. In case you think I am getting too influenced by religion in my old age, let me leave you with a quote from Che Guevera:

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> Let me say, at the risk of appearing ridiculous, that the true revolutionary is guided by strong feeling of love... Our vanguard revolutionaries must idealize their love for the people, for the hallowed causes, and make it one and indivisible.

Lal Salaam, to each of you and best wishes in your future struggles.

Nandita Haksar

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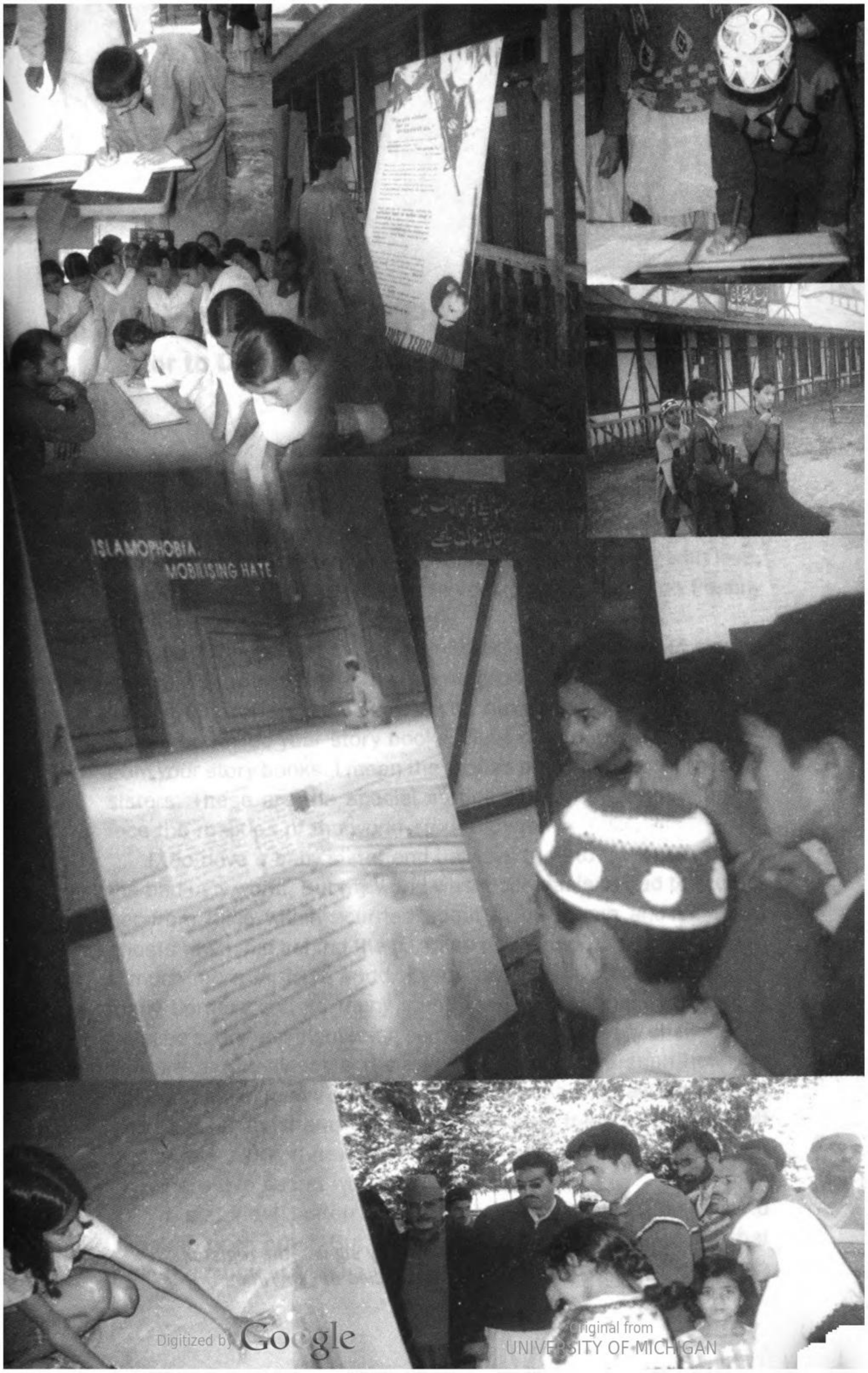

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Children express their solidarity by signing the register at our exhibition of posters, 'Lies of Our Times'

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Country without Prisons

Letter to Dhiya, A Very Special Little Girl

Dear Dhiya,

I have still to see your little sister, Mizsha. But I can imagine how excited you are and how your home is now radiating with love, joy and happiness. I could see the reflection of the joy on Peachy Khala's face when I met her briefly.

Do you know what I have been thinking? I wonder what stories you will tell your little sister as she grows up. I know you must have a fund of stories because you have read so much. I have myself borrowed your story books. But I do not mean the stories from your story books. I mean the stories older sisters tell younger sisters. These are the special stories to help them grow up, to face the realities of the world around them.

I too have a baby sister and I always tried to protect her from the bad ugly world. But my world was much easier. I had to protect her from mice which scurried about in our home and unknown ghosts which hid behind the curtains or under our beds. You live in a much more difficult world. Every day you have to negotiate so many borders and so many identities just to remain yourself. It must be scary and frightening sometimes but also very challenging. You are an intelligent and clever little girl. I have seen how you deal with the mutually exclusive worlds of India and Pakistan, Hindu and Muslim, Tamil and Sindhi. You combine them within yourself and create a brand new world in which only you inhabit. Now you can share this secret world with your sister.

My sister and I often used to wish we had a secret language to speak to each other. But we did not have any. You are lucky that from the moment Mizsha will speak you can speak in Tamil when

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you are in the midst of the Urdu speaking relatives, and in Urdu when you are with your Tamil-speaking family!

You can draw upon so much of your heritage to tell fabulous stories that can make Mizsha laugh, make her eyes round with wonder, scare her only so that she learns to deal with the realities of the outside world, and make her a spirited, fearless, intelligent and loving being like yourself.

You have inherited the culture of Mohenjo Daro, wisdom of ancient Tamil culture and non-Brahmin Hindu philosophy; you are the heir to the legacy of Islam with its central concern with justice and dignity; you are also the child of rational secularism, feminism and many nationalisms. What a rich heritage and treasure trove for stories, poetry, dance and music. But above all, it is an endless source of spiritual renewal and growth.

That is the good and exciting part. But what will you tell little Mizsha when she asks, why you cannot live either in Karachi or Jaffna? Why do you have to live in New Delhi? How will you answer her questions as she looks at you with a serious expression and trust in her eyes? How will you explain the violence that brought you to India?

How will she understand the violence of the midnight police raid that you experienced as a three year old when the Army broke into your father's home in Colombo? It may be even more difficult to explain why you cannot live in your mother's home in Karachi, so full of warmth and love. But the apparent security is so fragile.

I wonder how you will protect her from the cruel question that she will inevitably face, are you a Hindu or Muslim. She too will ask as you once did, why you must live in a country which is growing so violent and intolerant? What stories from your own life will you tell her to help her cope with the violence of Indian communalism? How will you explain her situation, so that she is able to cope with life the way you have done.

We never really talked much to each other but I could see how cleverly you were dealing with these complex problems. I always secretly admired your courage and intelligence in dealing with the situation. That is why I asked you whether you would draw one poster for me. It was a part of the exhibition of posters called 'Lies

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of Our Times' that told the story about one Kashmiri political prisoner called Abdul Rahman who had been framed and sentenced to death. I had asked you to draw an illustration for a poster called 'The hearing'. It had a poem by Recep Marasli, a Kurdish poet from Turkey who had been in Turkish jails for 36 years.

I told you the whole story about Abdul Rahman. You listened with absolute concentration, in silence. I asked you whether you knew the meaning of Islamophobia, and you silently nodded, but you said you did not understand what acquittal means.

Do you remember the poem? Let me remind you of the words:

The Judge was judged.
A question was asked:
What's the crime?
'In death's sovereignty' the judge said
'living is a crime'.

The gendarme was handcuffed.
A Question was asked:
'What is captivity?'
Obeying orders!
The jailer was locked up.

A question was asked:
'What is a cell?'
Man carrying the darkness within him.
The sentence was given:
The system has been arrested
Humanity has been acquitted of all Crimes.

You thought a while and then started drawing a picture. To begin it was such a dark and dismal picture with a dark brown crayon, and then you drew beautiful green shoots.

I remembered that night when we talked and that is what set me wondering about the secrets you would share with your baby sister?

I am sure you will make pictures for her and she will learn to draw from you. It will be fun teaching her to name the different colours and watch her amazement when she sees her first rainbow. Do you remember when you got your first easel, and what an

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exhilarating experience it was? I loved the candles you made, each with a different colour and shape.

Have you ever seen paintings by Chagall? I once saw a book full of his paintings and I was transported into his world by the magic of his colours. Someone described him as a poet, with the wings of a painter. Chagall, a Jew, wrote in the midst of the horrors of Nazi rule: "Despite all the troubles of our world, in my heart I have never given up on the love in which I was brought up or on man's hope in love. In life, just as on the artist's palette, there is but one single colour that gives meaning to life and art — the colour of love."

I thought those words were a bit strange because to me, love has so many colours. I am sure you would agree with me. Do you?

Will you help Mizsha create a beautiful world, where she can learn to escape when the world seems too harsh? What kind of world will it be? The strange part is that even in the make believe worlds of fantasies there is always violence. The only difference with the outside world is that here, within the story, it is dealt with a hero who has to face a great deal of suffering, before he can vanquish a dragon or defeat the forces of evil. I wonder what those forces of evil will be in the stories you will make for Mizsha?

I am beginning to lose the power of my imagination. Sometimes that happens as we grow older. But I still do fantasize about a world without prisons. I want to write a story about how two little girls like you and Mizsha went on a long journey to demolish all prisons.

I have always hated the idea of prisons. I did not like being in a boarding school because we were called by our numbers rather than by our names; I do not like hospitals because the doctors and nurses have so much power over you. I do not even like homes where parents do not allow children the freedom to grow. And I hate those families which imprison women within four walls of their homes and crush their creative energies.

In school my favourite poem was called Prisoner of Chillon. I do not know whether it is still a part of the syllabus and whether you have read it. The poem was written by Lord Byron in one day when he went to visit the castle of Chillon on the banks of Lake Geneva at Montreux in Switzerland. The snow clad Alps surround

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the Lake and are reflected in its still blue waters. The shore is full of walnut trees, fruit trees, cypress and magnolia trees and an occasional almond and even a palm tree.

It is an ideal setting for a fairy story. But as you very well know fairy stories always have the evil characters that make the story tense and scary. And this castle has some terribly damp and cold dungeons where political prisoners were kept in shackles. The poem is about one such prisoner called Francois Bonivard, the Prior of St Victor who supported the reform of religion and thus angered the Catholic Duke of Savoy who chained him from 1530 to 1534, six hundred years ago.

Lord Byron described the prisoner of Chillon as a King, as he was the most powerful of all the Beings inside his little prison cell, with mice and insects as his Subjects. I am not sure whether I like the idea of a political prisoner being compared to a King who is always a metaphor for authority. But I still like the poem.

I also love Joan Baez singing: "We will raze the prisons to the ground" and Paul Robeson singing "Joe Hill". But when I think back all these songs and stories that I liked are rather one dimensional. They are essentially about a fight between good and evil, and it is clear from the beginning who was good and who is evil; who is right and who is wrong; and the good and right always win.

In your world the plots are so much more multifaceted; the fight for justice is made very difficult because it is not so easy to identify immediately the good from the evil. It is the context which sometimes decides who is right and wrong, good and evil, and then our struggles become so much more complex. Isn't that why Harry Potter books are so popular with children because they reflect these complexities. That's probably why the Christian fundamentalists want to ban Harry Potter. They do not like complexities.

Did you read Harry Potter and the Prisoner of Azkaban? I read it while I was fighting for the release of Abdul Rahman. The two stories had such remarkable parallels. Sirius Black was a friend of Harry Potter's father James Potter, and both of them hated the Dark Arts practised by those who believed that Pure bloods were superior to half bloods or muggle born. Sirius was framed in the

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murder of Pettigrew and for betraying the Potters. He was sentenced without a trial and imprisoned in solitary confinement for 12 years, subjected to mental torture by the soul-sucking dementors who feed on positive emotions of human beings, forcing them to live their worst memories.

The dementors can even kill a person unless he or she can fight them with positive emotions. Then they can be driven away. Do you remember how terrifying it was for Harry Potter to ward off the dementors? Sirius too fought off his tormentors and did not allow the deadening effect of the torture to kill his ability to hope.

I think you too have fought off many dementors. You have also fought against those who think Pure bloods are superior. You have fought them without the benefit of a Patronus Charm. Will you share with your little sister the stories of your terrifying fights? I wish I could also listen to your stories.

But dear Dhiya, you can learn one thing from your parents. They never let any ideology, religion, institution or culture imprison their thoughts. You too must never allow yourself to be imprisoned by any idea or institution. Never let anyone limit your freedom to create, or your ability to grow, intellectually, emotionally or spiritually. And teach everything you learn to your little sister so that when she grows up you both can be friends and support each other especially in times of crises.

I hope you and your little sister will have rich, creative lives full of challenges and your lives will always be full of meaning and purpose. If one day your little sister rebels and wants to be her own person, let her go even if you feel hurt. Do not imprison her in your love. She will come back one day, when she remembers the wonderful stories you told her.

With Love

Your Nandita Khala

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The Two Brothers and their Friends:
Standing : Janaki, Sebastian, me, Geelani (in the poster), Rona and Mayori
Sitting : Jatinder, Bismillah and Vinod

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The Valley of Sorrow

A Fable for Those Too Young to Read Letters

Once upon a time there was a very beautiful Valley called the Valley of Sorrow. It was surrounded by green meadows and snow clad peaks. The hills were covered with thick forests of pines, oaks and chinar trees. The people of the Valley loved their land and were ever so proud of its world renowned Beauty.

Thousands of people from all over the world visited the Valley and enjoyed the serenity of its forests, deep stillness of its mountain lakes and the hospitality of the hardy, warm hearted people. Most people did not know it was called the Valley of Sorrow so they called it just the Valley.

The people looked rather rough but there was magic in their hands. They wove wonderful carpets which could fly over clouds, their exquisite embroidery could bring a smile on the face of any princess, and the painted intricate designs on papier mache boxes and lamps were so unique that every tourist bought at least one to take back home.

The tourists would also take home memories of the gurgling rivulets full of delicious trout, the sound of the wind in the trees and the sight of the moonlight on the terraced paddy fields.

But there were some people who could not just enjoy the Beauty of the land and the hospitality of its people. They were the Greedy people from the Land of Heat and Dust. These Greedy people wanted to possess the Beauty of the Valley. And slowly they started a very nasty and cruel war on the people of the Valley. They plunged the people into a never ending sorrow and that is how it got its name.

To begin with, the people in the Valley tried to settle the matter by talking to those Greedy people and explaining to them the injustice of their actions. For more than 60 years the people

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patiently tried to deal with the problem through peaceful ways. The people tried to tell these Greedy people that Beauty could never be owned, it had to be enjoyed, carefully and lovingly tended.

The people of the Valley dealt with their never ending sorrow by telling each other stories. They loved stories, poems and tales of far away places. The children liked stories of adventure and escapades while the women folk liked romantic stories. The men wanted stories with action. But all their stories always had deep philosophical meanings which enriched their lives and gave the people the strength to live with courage, humour and hope.

One of their favourite stories was about two brothers who fought a brave and courageous battle and defeated the evil forces who were trying to destroy the Beauty of their Valley. That story was full of action but it was also about friendship and love. So it had an appeal to everyone. And the best part of the story was that it was true. A real story of not so long ago.

This true story was repeated in every home during the long winter months when the white snowflakes fell past closed windows and people sat warming their hands on burning charcoal in special baskets called Kangris. And this story was a favourite even when the snows melted and slowly the bitter cold gave way to the spring and the entire Valley would become into a huge garden full of colourful flowers smiling in the weak sunshine. The spring would slowly bring leaves to the bare trees and the people of the Valley would celebrate the coming of the almond blossom.

Then no one would stay indoors any more. Every family would pack their lunch into huge tiffin carriers and go to the parks and gardens or to their orchards full of apple blossom and the picnics would end only when it was twilight. They wanted to enjoy every moment of the spring and the mild summer, before the autumn would turn the chinar leaves into brilliant red and gold; and then everyone knew that winter would soon bring snow and ice.

While all this was happening two little boys called Abdul Rahman and Bismillah were sent away by their parents to study in a far away place called the Land of Heat and Dust. Their school was in the midst of sugarcane fields but it was very hot and everything was strange. They wanted to have their homemade food, especially

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hot rice instead of *rotis*. But slowly they became used to it and they studied hard. They learnt about their religion and also Urdu, Persian, Arabic, Hindi and English. They already knew Kashmiri. Can you imagine knowing six languages!

But don't think these two were the goody-goody kind of boys who studied all day. They were very naughty and were always up to some tricks, playing pranks and mischief. And even when they grew up they remained full of fun and very naughty. They loved to play outdoor games. Abdul Rahman loved cricket but his younger brother preferred football.

But there was one thing very special about these two boys. They were not scared and they always told the truth. Nothing could make them tell a lie.

After their studies they returned home to the Valley and discovered that it had been scarred and the green had turned into grey. It was under occupation by the soldiers from the Land of Heat and Dust. The rivers and lakes were drying up, the forests and hills were dotted by military camps and there was fear in the eyes of their people.

These two brave boys met with their old friends. The young people were angry that their leaders had done nothing to save their green Valley. Some friends decided that the only way to fight the injustice they were facing was to pick up guns and fight the Rulers of Land of Heat and Dust. But Abdul Rahman and Bismillah wanted to study and learn more about the world. So they set off to the Land of Heat and Dust once again.

Their friends warned them that their lives would be in danger in the Land of Heat and Dust. But the two brothers were determined to continue their studies. Before leaving they promised to never forget their home and people. The story is about what happened to them once they left the Valley and arrived in the Land of Heat and Dust.

In the beginning the brothers encountered a lot of prejudice because the Rulers of Land of Heat and Dust had spread hatred against the people of the Valley of Sorrow. The two brothers had to fight against prejudice and hate. But the brothers did not hate the people from the Land of Heat and Dust, because they knew the

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people were not bad, only ignorant. The brothers wanted to fight the Rulers who had made their people ignorant.

You see, the Land of Heat and Dust was once called the Land of Peacocks because it was full of beautiful peacocks living in emerald green forests. But the Rulers wanted to possess the Beauty of the Peacocks and had begun to kill the Peacocks because till the time Peacocks were alive they could never be totally possessed. Then one day the Peacocks had flown away because they loved their Freedom. When the Peacocks left, the green forests too disappeared, and the Land of Peacocks became the Land of Heat and Dust.

The two brothers started telling the people of the Land of Heat and Dust the truth about how their army was committing all kinds of atrocities on the people in the Valley of Sorrow. How they beat up old men and locked up young men without even telling their parents where their children had been locked up.

Soon many people in the Land of Heat and Dust started believing the two brothers and started questioning their own Rulers. But then the Rulers got hold of some journalists and made them write lies about the people of the Valley of Sorrow, and even about the two brothers. And one day, the Rulers sent their Shadowy Men and arrested the elder brother, Abdul Rahman and locked him inside the jail. They beat him so badly that he could not walk but they did not allow him to see a doctor. They put him in a dark room and switched off the light, so he could not even read books.

The Rulers told Abdul Rahman that if he would give a False Public Statement saying that everything in the Valley was alright then the Rulers would allow him to study further. But Abdul Rahman and Bismillah refused to tell lies. They preferred to suffer than to give any False Statements.

The younger brother felt very lonely after his elder brother was taken away and put behind bars. His family in the Valley of Sorrow told him to come back to them. They said there was no hope of ever seeing Abdul Rahman again because everyone knew that when the Rulers of Land of Heat and Dust took away people from the Valley of Sorrow they just disappeared.

Bismillah went to see his elder brother inside the jail. He was shocked when his elder brother told him that the Rulers were trying

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to kill him inside the jail. Abdul Rahman told his younger brother to contact his friend Kumar Sanjay. Bismillah asked his elder brother how he could think that anyone from the Land of Heat and Dust could help anyone from the Valley of Sorrow. But Abdul Rahman insisted. He told Bismillah that many people in the Land of Heat and Dust were already secretly fighting their Rulers, so that the Peacocks would return to their land. And these people had great sympathy for the people of the Valley.

Bismillah contacted Kumar Sanjay. And then Sanjay contacted a lawyer called Nandita. Then Sanjay's friend Rona joined them and Rona's friend Jatinder, and Jatinder's friends Daljit and Janaki, and Nandita's husband, Sebastian who was from the Land of the Shiroy Lily also joined, because the soldiers from the Land of Heat and Dust also committed many atrocities on the people of Land of the Shiroy Lily. And soon Mayori, also from the Land of Shiroy Lily joined in solidarity. And Vinod who was Rona's friend also joined and together all of them launched a campaign to get Abdul Rahman released from the jail.

When Bismillah told his family and friends in the Valley of Sorrow that so many people in the Land of Heat and Dust were campaigning for his brother, the people did not believe him. They said all of them must be pretending to be helping but in fact were working for the Rulers. But Bismillah told them that he had really found new Friends who did not like what the Rulers of the Land of Heat and Dust were doing to the peoples, either in the Land of Shiroy Lily or in the Valley of Sorrow.

Abdul Rahman and Bismillah's new Friends exposed how corrupt the Rulers were. The Shadowy Men even filed a false case against Abdul Rahman. They accused him of trying to kill a Peacock but everyone knew that there were no Peacocks left. So, even the Judge refused to believe the story of the Shadowy Men. Besides, the Judge did not like punishing people when they had not committed any wrong. He was fed up of being a tool of the Rulers and he wanted to be a real Judge and give real justice, so he set Abdul Rahman free. That day was October 30, 2003.

That is how the Friends and Bismillah succeeded in their campaign to release Abdul Rahman from the jail in the Land of

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Heat and Dust. Naturally everyone was overjoyed. The two brothers and their Friends celebrated by having mutton biryani and they got a special vegetable pulao for Janaki who is a Vegetarian. Then Janaki, who is a very good driver, took everyone for a long ride in her red car and dropped the brothers all the way to their home in the Valley of Sorrow. And Daljit made a film on that memorable journey.

But the story does not end here.

In the course of the campaign to relase Abdul Rahman, the Friends also found out many nasty things about their Rulers. They also discovered that many people secretly wanted to get rid of the Rulers, but were too scared to speak out. And some people out of fear did bad things to people from the Valley of Sorrow, like refusing to let them live in their houses and refusing to give them jobs. That is how sometimes good people became bad people out of fear. And sometimes even the people from the Valley of Sorrow helped the Shadowy Men because they were afraid that if they did not help them they would land in jail.

The Rulers tried to frighten the two Brothers and their Friends. But the Friends and the two Brothers refused to give in to fear, even when the Rulers tried to scare them by getting the Shadowy Men to follow them everywhere. The Shadowy Men are a secret group used by the Rulers of Land of Heat and Dust to collect information about people who dare to fight against their unjust Rule. The Shadowy Men do all kinds of things to frighten people.

No one could live happily ever after until the Valley of Sorrow and the Land of the Shiroy Lily were free from the soldiers of the Land of Heat and Dust. And that could only happen when the Rulers of the Land of Heat and Dust could be changed. The two Brothers and their Friends decided to continue their struggle against the Shadowy Men, the Greedy people and the Rulers. They wanted to have Rulers who were kind and compassionate, so that the Peacocks returned and once again danced in thick green forests. So, the Friends and the two Brothers decided to continue working together to bring real peace and justice. In the meantime they always took time to eat together good food and tell each other jokes and laugh together. Sometimes they had fights and did not

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talk to each other but then, when they missed each other very much they would come together again.

And they had a favourite song they would sing whenever they felt sad or a little discouraged. The song was about their dream of building a beautiful world based on love and friendship. It is called 'Under the Shade of a Faraway Sky'. The original song is in Hindustani but I have translated it for you. I hope you like the words:

Come, let me walk with you,
Let me take you under a sky,
Where there is no sorrow, and no tears
Where there is only love and more love
Under the shade of such a sky, I shall take you.
Where the first ray of the sun
Awakens a morning full of hope,
And the rays bathed in moonlight
Chase away the darkness of the night.
Sometimes there is sunshine, sometimes there is cool shade,
And the wide expanse of the sky.
Wherever you look you see a free sky
With colourful birds carrying messages of hope,
Where buds are brought up with dreams
And the evenings are golden as they become night.
In a world of such dreams
Where there is only love and more love
We can go there and lose our selves
Where no one nurtures grudges or complaints
Where there is no conflict, where there is no stranger,
And everyone walks along together.

Moral: If you fight without fear for truth and justice you will win friends.

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Thank you!

There were hundreds of men, women and children who helped in our campaign for acquittal of Geelani and they did it because they were committed to fighting for democratic principles and secular ideals. But many of these people also extended their warmth and support to me personally and without their support I could not have sustained myself through this difficult period of ill health, tension and emotional stress of a woman in the middle of her menopause.

My sincere, heartfelt thank you to the following:

- Kumar Sanjay Singh for bringing me out of exile;
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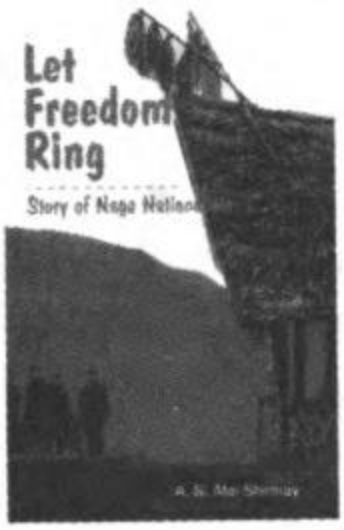

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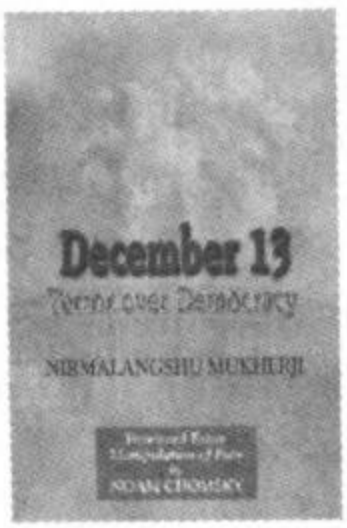

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